

Family and Juvenile Law Advisory Committee Meeting

FEBRUARY 26, 2015
SAN FRANCISCO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

FAMILY AND JUVENILE LAW ADVISORY COMMITTEE MEETING



JUDICIAL COUNCIL
OF CALIFORNIA

FAMILY AND JUVENILE LAW
ADVISORY COMMITTEE

February 26, 2015
Judicial Council Boardroom, 3rd Floor
San Francisco, California

Agenda

- 10:00 – 10:15 a.m. Welcome
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair
Ms. Audrey Fancy, Cocounsel
Ms. Julia Weber, Cocounsel
- 10:15 – 10:30 a.m. Judicial Council Public Comments Discussion
Hon. Jerilyn L. Borack
Hon. Mark A. Juhas
- 10:30 – 11:20 a.m. Review and Discussion of the Status of Referrals and Related Chief Justice/Advisory Committee/Task Force/Division Initiatives
- [Advisory Committee on Providing Access and Fairness](#)
 - [Blue Ribbon Commission on Children in Foster Care \(BRC\)](#)
 - CJER Education Programs and Curriculum Planning
 - [Commission on the Future of California's Court System](#)
 - [Domestic Violence Practice and Procedure Task Force](#)
 - [Elkins Family Law Implementation Task Force](#)
 - [Keeping Kids In School](#)
 - [Language Access Plan](#)
 - [Mental Health Issues Implementation Task Force](#)
 - Protective Orders Working Group
 - [Violence Against Women Education Program \(VAWEP\)](#)
 - Court Coordination Efforts: Discuss Promising Practices
- 11:00 – 11:20 a.m. Rules Modernization Project
Hon. Peter J. Siggins, Associate Justice of the Court of Appeal, First Appellate District, Division Three
Ms. Diana Glick, Attorney, Center for Families, Children & the Courts
Ms. Tara Lundstrom, Attorney, Legal Services Office
Mr. Patrick O'Donnell, Managing Attorney, Legal Services Office
- 11:20 – 11:40 a.m. Juvenile Custody Orders
Hon. Jerilyn L. Borack
Mr. Corby Sturges, Attorney, Center for Families, Children & the Courts
- 11:40 – 12 noon DV-520-INFO
Hon. Louise Bayles-Fightmaster, Commissioner, Superior Court of Sonoma County
Ms. Julia Weber
- 12 noon – 12:15 p.m. Public Comment
- 12:15 – 12:45 p.m. **Working Lunch:** Brainstorm Ideas for Beyond the Bench 23: User Experience
Redwood A/B December 2-4, 2015 in Southern California

- 12:45 – 1:10 p.m. Discussion of Special Immigrant Juvenile Status
Hon. Maureen Hallahan, Judge, Superior Court of San Diego County
Mr. Corby Sturges
- 1:10 – 1:20 p.m. Legislative Update and Discuss Pending Bills
Hon. Jerilyn L. Borack
Mr. Alan Herzfeld, Attorney, Office of Governmental Affairs
- 1:20 – 1:35 p.m. Psychotropic Medication—“Drugging Our Kids” Documentary Presentation
Ms. Karen de Sa, San Jose Mercury News

Family Law Subcommittee
JCCC Redwood A/B, 3rd Floor

- 1:35 – 2:00 p.m. Family Law Rules and Forms Update
Hon. Mark A. Juhas
Ms. Bonnie Hough, Managing Attorney, Center for Families, Children & the Courts
Ms. Julia Weber
- 2:00 – 2:30 p.m. Discussion on the [Elkins Family Law Implementation Task Force](#) and [Domestic Violence Practice and Procedure Task Force Recommendations](#)
Review of Annual Agenda Family Law and Domestic Violence Projects
Hon. Mark A. Juhas and Committee
Ms. Julia Weber
- 2:30 – 2:45 p.m. **Break**
- 2:45 – 3:00 p.m. Family Law Executive Committee (State Bar) Report
[Family Law Essentials Presents: Discovering the Theory of Your Case and Proving it at Trial](#)
Ms. Sherry Peterson
- 3:00 – 3:30 p.m. Additional Committee Priorities for 2015-2016
Committee
- 3:30 – 3:45 p.m. VAWEP Meeting
Committee
- 3:45 – 4:00 p.m. Next Steps
Committee
- 4:00 p.m. Adjourn

Juvenile Law Subcommittee
JCCC Boardroom, 3rd Floor

- 1:35 – 2:00 p.m. Possible Proposed Competency Legislation
Hon. Patrick E. Tondreau, Judge, Superior Court of Santa Clara County
Ms. Marymichael Miatovich, Attorney, Center for Families, Children & the Courts
- 2:00 – 3:15 p.m. Juvenile Law RUPRO and Annual Agenda Items:
 - Sibling Visitation: SB 1099 (Steinberg)
Ms. Kerry Doyle
 - Substance Abuse Treatment: Discuss Amending Rule 5.674(b)
Hon. Jerilyn L. Borack
Ms. Kerry Doyle
 - Sealing Delinquency Records: SB 1038 (Leno)
Hon. Patrick E. Tondreau
Ms. Audrey Fancy
 - Intercounty Transfer and Proposition 47
Hon. Carolyn M. Caietti, Judge, Superior Court of San Diego County
 - Private Guardianships
Hon. Jerilyn L. Borack
 - Other emerging issues (All)
- 3:15 – 3:30 p.m. **Break**
- 3:30 – 3:45 p.m. Blue Ribbon Commission on Children in Foster Care (BRC) Recommendations
Mr. Don Will, Manager, Center for Families, Children & the Courts
- 3:45 – 4:00 p.m. Juvenile Law: Title IVE Waiver Demonstration Projects
Mr. Don Will
- 4:00 p.m. Adjourn

Family and Juvenile Law Advisory Committee

Annual Agenda—2015

Approved by E&P/RUPRO: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Jerilyn Borack and Hon. Mark A. Juhas, co-chairs
Staff:	Ms. Audrey Fancy and Ms. Julia Weber, Co-counselors; Ms.Carolynn Bernabe, Senior Administrative Coordinator, Center for Families, Children & the Courts
Advisory Body's Charge: Makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children. [Rule 10.43]	
Advisory Body's Membership: 34 members with 1 appellate court justice; 18 trial court judicial officers; 1 judicial administrator; 1 child custody mediator; 3 lawyers whose primary area of practice is family law; 1 lawyer specializing in governmental child support; 1 domestic violence prevention advocate; 1 chief probation officer; 1 child welfare director; 1 court appointed special advocate director; 1 county counsel assigned to juvenile dependency; 1 district attorney assigned to juvenile delinquency); 1 public-interest children's rights lawyer; 2 lawyer from public or private defender's office whose primary area is juvenile law.	
Subgroups/Working Groups¹: <ul style="list-style-type: none">• Family Law Subcommittee• Juvenile Law Subcommittee• Protective Order Forms Working Group• Violence Against Women Education Program (VAWEP²)• Joint Juvenile Competency Issues Working Group	
Advisory Body's Key Objectives for 2015: <ol style="list-style-type: none">1. Provide recommendations to the Judicial Council on funding and allocation methods for specified legislatively mandated court-related programs.2. Provide recommendations to the Judicial Council to enable the Judicial Council to fulfill legislative mandates for changes to or new statewide rules and forms.3. Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law.	

¹ California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

² On August 22, 2014, the Judicial Council approved a recommendation from the Family and Juvenile Law Advisory Committee that VAWEP become a standing subcommittee of the Family and Juvenile Law Advisory Committee. The composition of VAWEP has been guided by grant requirements and advisory committee chair review. At the time the council took action and currently, one member of the 22-member VAWEP group also serves on the advisory committee. A copy of the council report is available here: <http://www.courts.ca.gov/documents/jc-20140822-itemE.pdf>

II. ADVISORY BODY PROJECTS

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Provide subject matter expertise to the council by providing recommendations for rules and forms required by recent legislative changes as a result of the following bills:</p> <p>2012-2013 Legislative session</p> <ul style="list-style-type: none"> Assembly Bill 1712: Minors and nonminor dependents (The Judicial Council was a cosponsor of Assembly Bill 12, the original legislation that authorized extended foster care for young adults ages 18 to 21, which was enacted in 2010, with most of its provisions effective January 1, 2012. The council has supported each of the subsequent cleanup bills to make changes to ensure smooth and effective implementation of Assembly 	1(b)	<p>Judicial Council Direction: Committee charge under rule 10.43</p> <p>Origin of Project: Legislative mandate.</p> <p>Resources:</p> <p>Key Objective Supported:</p> <ol style="list-style-type: none"> 2. Provide recommendations to the Judicial Council to enable the Judicial Council to fulfill legislative mandates for changes to or new statewide rules and forms. 3. Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law 	July 1, 2015 Jan. 1, 2016	Rules, forms, incorporating information in education and training programs, or information and analysis for council on why action on the council's part may or may not be necessary.

³ 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.

⁴ 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 ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>Bill 12: Assembly Bill 212 in 2011, Assembly Bill 1712 in 2012, and Assembly Bill 787 (Stone; Stats. 2013, ch. 487) in 2013.)</p> <p>2014-2015 Legislative session</p> <ul style="list-style-type: none"> • AB 2454 (Quirk-Silva) Foster youth: nonminor dependents (Ch. 769) Allows a nonminor dependent who received either Kin-GAP aid or adoption assistance aid after turning 18 years old to petition for resumption of dependency jurisdiction. • AB 388 (Chesbro) Juveniles (Ch. 760) Among other things, requires that there be reasons to continue holding a dual-status minor in custody in delinquency matters other than the child welfare department's inability to find an adequate placement or the minor's status as a dependent. • AB 2607 (Skinner) Juveniles: detention (Ch. 615) Among other things, limits a 				

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	<p>court's authority to decide what is a reasonable ground for continued detention of a dual-status minor or nonminor, specifically eliminating administrative delays or a probation officer's inability to find an appropriate placement for the minor or nonminor. Options for relief include releasing the minor or nonminor from custody. Requires periodic review of detention by the court.</p> <ul style="list-style-type: none"> <li data-bbox="268 776 701 1062">• SB 1099 (Steinberg) Dependent children: sibling visitation (Ch. 773) Among other things, requires a court to review the reasons for any suspension of sibling visitation with a minor or nonminor dependent. <li data-bbox="268 1107 701 1409">• SB 1460 (Committee on Human Services) Child welfare (Ch. 772) Among other things, requires a juvenile court to transfer a case file to a tribe having jurisdiction over a juvenile court case, and requires both the juvenile court and the tribe 				

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	<p>to document the finding of facts supporting jurisdiction over the child by the tribal court. Requires that a transfer order shall have precedence in scheduling, "and shall be heard by the court at the earliest possible moment after the order is filed." Further allows a child who has been removed from the custody of his or her parents to be placed with a resource family, as defined.</p> <ul style="list-style-type: none"> <li data-bbox="268 716 709 1029"> <p>• SB 977 (Liu) Juveniles (Ch. 219) Among other things, authorizes a court to place a child with a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.</p> <li data-bbox="268 1073 709 1417"> <p>• SB 1038 (Leno) Juveniles: dismissal of petition (Ch. 249) Removes the cap of 21 years old by which a court must dismiss a petition against a former ward of the court. Does not require the court to have jurisdiction over the former ward at the time of dismissal of a petition. Further requires a</p> 				

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	<p>court to automatically seal the records of minors under specified circumstances, and grants limited access to such files without this access constituting "unsealing" of the records.</p> <ul style="list-style-type: none"> <li data-bbox="268 506 722 1166"> <p>• AB 1701 (Patterson) Family law: adoption (Ch. 763) Among other things: Clarifies who can bring an action to declare the existence or nonexistence of a presumed parents-child relationship, specifying that the child's natural mother, rather than natural parent, may do so. Allows a single consolidated petition to terminate the parental rights to multiple children. Allows a court to permit prospective adoptive parents to appear in adoption proceedings by telephone, videoconference, or other remote electronic means.</p> <li data-bbox="268 1214 722 1416"> <p>• AB 2344 (Ammiano) Family law: parentage (Ch. 636) Among other things, creates a statutory form to establish the intent to be a legal parent or not when donating genetic</p> 				

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	<p>material, and establishes the procedure for stepparent adoptions involving a spouse or partner who gave birth during the marriage or partnership, including exempting such adoptions from home visit and home study requirements.</p> <ul style="list-style-type: none"> AB 1761 (Hall) Dependent children: placement (Ch. 765) Among other things, expands the time periods during which a County Department of Social Services must conduct a suitability assessment of a relative or nonrelative extended family member who requests temporary placement of a child who has been taken into temporary custody based on allegations of abuse or neglect, if the child is not released to a parent or guardian. 				

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2.	<p>Proposition 47 Monitor implementation of proposition enacted November 5, 2014 and assist the juvenile courts with any required implementation.</p>	1	<p>Judicial Council Direction: Statutory mandate and council delegation to the committee.</p> <p>Origin of Project: Statutory mandate</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 2</p>		<p>Rules, forms, incorporating information in education and training programs, or information and analysis for council on why action on the council's part may or may not be necessary.</p>
3.	<p>Assembly Bill 1058 Child Support Program Funding Provide recommendations to the council for allocation of funding pursuant to Family Code sections 4252(b) and 17712.</p>	1	<p>Judicial Council Direction: Legislative mandate and council delegation to the committee.</p> <p>Origin of Project: Legislative mandate</p> <p>Resources: Judicial Council Finance Staff</p> <p>1. Key Objective Supported: Provide recommendations to the Judicial Council on funding and allocation methods for specified legislatively mandated court-related programs.</p>	Ongoing	<p>Council will receive recommendations so council members can take required action allocating federal funds to local courts</p>

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4.	<p>Access to Visitation Funding Provide recommendations to the council for allocation of funding pursuant to Family Code section 3200.</p>	1	<p>Judicial Council Direction: Legislative mandate and council delegation to the committee.</p> <p>Resources: Judicial Council Finance Staff Office</p> <p>Origin of Project: Legislative mandate and Judicial Council direction</p> <p>Key Objective Supported: 1</p>	Ongoing	Council will receive recommendations so council members can take required action allocating federal funds to local courts
5.	<p>Serve as statutorily mandated Advisory Committee to the Judicial Council for the Court Appointed Special Advocates (CASA) grants program (Welf. & Inst. Code, § 100 et seq.) Recommend annual funding to local programs pursuant to the methodology approved by the Judicial Council in August 2013.</p>	1	<p>Judicial Council Direction: Committee charge under CRC 10.43; Legislative mandate</p> <p>Origin of Project: Welf. & Inst. Code, § 100 et seq. and Judicial Council direction</p> <p>Resources: Judicial Council Finance staff</p> <p>Key Objective Supported: 1</p>	Ongoing	Council will receive recommendations so council members can take required action allocating funds to local courts
6.	<p>Special Immigrant Juvenile Status To enrich recommendations to the council and to avoid duplication of efforts, the committee will collaborate with</p>	1	<p>Judicial Council Direction: Legislative Mandate</p> <p>Origin of Project: Legislature SB 873</p>		

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	<p>the Probate and Mental Health Advisory Committee and the CJER Governing Committee to implement Senate Bill 873 and other issues related to child custody (Hague Service Convention, the Inter-American Convention on Letters Rogatory and Additional protocol (IACAP); subject matter jurisdiction under the Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)) (Stats. 2014, ch. 685) and develop of rules and forms, educational events, informational materials, and other resources to aid judges and court staff as well as justice partners and court users accessing the court system.</p>		<p>Resources: Legal Services, Education Division</p> <p>Key Objective Supported: 1 and 2</p>		
7.	<p>Blue Ribbon Commission on Children in Foster Care (BRC) recommendations Review and consider for action, when resources become available, the BRC recommendations related to court reform that have been ongoing, but have not yet been fully implemented because of significant budget challenges. Those recommendations broadly include:</p> <ol style="list-style-type: none"> 1. Reducing caseloads for judicial officers, attorneys, and social 	1	<p>Judicial Council Direction: Refer by the Judicial Council</p> <p>Origin of Project: Judicial Council</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 1</p>	Ongoing	

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	<p>workers;</p> <p>2. Ensuring a voice in court and meaningful hearings for participants;</p> <p>3. Ensuring adequately trained and resourced attorneys, social workers, and Court Appointed Special Advocates (CASA); and</p> <p>4. Establish and monitor data exchange standards and information between the courts and child welfare agencies and those to be monitored by the Judicial Council Technology Committee, in consultation with the Family and Juvenile Advisory Committee, develop technical and operational administration standards for interfacing court case management systems and state justice partner information systems.</p>				
8.	<p>FL-800 Joint Petition for Summary Dissolution Update to reflect change in cost of living per Family Code section 2400(b) as a technical change.</p>	1	<p>Judicial Council Direction: Legislative mandate</p> <p>Origin of Project: Legislation</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported:1</p>	July 1, 2015	

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9.	<p>Domestic Violence Provide recommendations to the council on statewide judicial branch domestic violence issues in the area of family and juvenile law, including projects referred from the work of the Domestic Violence Practice and Procedure Task Force and the Violence Against Women Education Program (VAWEP). As lead to Protective Order Forms Working Group, initiate review of the necessity of the working group and consider efficient ways of addressing coordination of related matters in this area.</p>	1	Judicial Council Direction: Referral of projects from the Domestic Violence Practice and Procedure Task Force	Ongoing	Coordination of activities in subject matter area so as to avoid duplication of resources and potential conflict in rules, forms, and other areas
10.	<p>Legislation Review and recommend positions on legislation related to family and juvenile law matters.</p>	1	Judicial Council Direction: Committee charge under CRC 10.43	Ongoing	Subject matter expertise provided to PCLC so that council may take appropriate action
11.	<p>Education Contribute to planning efforts in support of family and juvenile law judicial branch education.</p>	1	Judicial Council Direction: Committee charge under CRC 10.43	Ongoing	Subject matter expertise provided to CFCC, Education Division, and CJER Governing Committee so that content of programs can be coordinated across the branch

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12.	<p>Family Law: Revise FL-300 and companion forms Propose revisions to forms to respond to statutory changes and requests from litigants and court professionals about new FL-300 and comply with new statutory requirements in Family Code section 6345(d) regarding providing a mechanism to allow parties to modify domestic violence restraining orders.</p>	1	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Legislative mandate</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 1</p>	January 1, 2016	
13.	<p>Governmental Child Support Forms Revise forms to remove statutory mandated language added effective July 1, 2011 regarding child support and incarcerated obligors since the statutory provision of Family Code 4007.5 is set to sunset July 1, 2015 and there is no indication that the provision will be extended. Requires technical change to Form FL-530, <i>Judgment Regarding Parental Obligations (UIFSA)</i>, item 6.b.(6), Form FL-615, <i>Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental)</i>, item 3.e.(6), Form FL-625,</p>		<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Legislative mandate</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 1</p>	July 1, 2015	Revised forms

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	<p><i>Stipulation and Order (Governmental)</i>, item 3.d.(6), Form FL-630, <i>Judgment Regarding Parental Obligations (Governmental)</i>, item 6.b.(6), Form FL-665, <i>Findings and Recommendation of Commissioner (Governmental)</i>, item 5.c.(6), Form FL-687, <i>Order After Hearing (Governmental)</i>, item 4.b.(6), and Form FL-692, <i>Minutes and Order or Judgment (Governmental)</i>, item 14.i. In addition, FL-676, <i>Request For Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization (Governmental)</i>, would be revised as this form contains the request for relief pursuant to the sunset provision in Family Code 4007.5. The name of the form would be changed and item 4 would be removed.</p>				
14.	<p>Consult with staff on approving training providers under 5.210, 5.225, 5.230, and 5.518. Under proposed rule changes, current review of training providers by the Administrative</p>	1	<p>Judicial Council Direction: Judicial Council</p> <p>Origin of Project: Judicial Council, result of name change (from AOC to JC) and review</p>	Jan. 1, 2016	

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	Office of the Courts would be changed to Judicial Council staff, in consultation with the Family and Juvenile Law Advisory Committee. Once the Judicial Council enacts this change the committee will need to develop an ongoing process to review trainings requests.		of delegations Resources: Secretariat, LSO, CFCC Key Objective Supported: 2		
15.	<p>Serve as lead/subject matter resource for other advisory groups to avoid duplication of efforts and contribute to development of recommendations for council action.</p> <p>Such efforts may include providing family and juvenile law expertise and review to working groups, advisory committees, and subcommittees as needed.</p>	2	<p>Judicial Council Direction: Pursuant to the committee’s charge under California Rules of Court, rule 10.43 “Makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children.”</p> <p>Origin of Project: Respective advisory bodies</p> <p>Resources:</p> <p>Key Objective Supported: 2</p>	Ongoing	Coordinated rules, forms, and legislative proposals for council consideration
16.	<p>Rules Modernization Project</p> <p>Each advisory committee has been asked to include in their annual agenda for 2015 an item providing for the drafting of proposed amendments to the California Rules of Court related to their</p>	2	<p>Judicial Council Direction: Pursuant to the committee’s charge under California Rules of Court, rule 10.43 “Makes recommendations to the Judicial Council for improving the administration of justice in</p>	Jan. 1, 2017	

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	subject matter areas. This effort would be undertaken in coordination with CTAC, which is responsible for developing and completing the overall rules modernization project.		<p>all cases involving marriage, family, or children.”</p> <p>Origin of Project: CTAC</p> <p>Resources: CFCC staff</p> <p>Key Objective Supported: 2</p>		
17.	<p>Juvenile Law: Intercounty Transfers</p> <p>Revise 5.610(g) to clarify delegation of approval of local juvenile court transfer forms.</p>	2(b)	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Judicial Council. Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts (October 25, 2013)</p> <p>Resources:</p> <p>Key Objective Supported:</p> <ul style="list-style-type: none"> • 2 • 3 	<p>January 1, 2017.</p> <p>Deferred at request of TCPJPJ/CEO Joint Rules Working Group pending monitoring of Southern California pilot.</p>	<p>Rule revised to reflect changes in the law</p>
18.	<p>Juvenile Law: Competency issues</p> <p>To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Collaborative Justice Courts Advisory</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Committee members and numerous suggestions from trial court judges in recent years.</p>	<p>January, 1 2016</p>	<p>Legislative proposals for consideration by PCLC and/or rules and forms amendments for consideration by RUPRO.</p>

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	<p>Committee, and former members of the Mental Health Task Force serving on other advisory bodies, to consider developing recommendations to the Judicial Council to: (1) revise rule 5.645 to define appropriate evaluation tools for use with juveniles, (2) amend legislative language to clarify the presumption of competency, (3) suggest other legislative changes necessary to improve the handling of cases where competency issues are raised, and (4) identify effective practices developed by local courts to address juvenile cases in which competency is a factor.</p>		<p>Resources: Mental Health Task Force; Collaborative Justice Courts Advisory Committee</p> <p>Key Objective Supported:</p> <ul style="list-style-type: none"> • 2 • 3 		
19.	<p>Juvenile Law: Private guardianships. To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Probate and Mental Health Advisory Committee to explore further statutory revisions and/or changes to rules and forms to improve the handling of private guardianship cases when allegations of child abuse or neglect arise and cases</p>	2	<p>Judicial Council Direction:</p> <p>Origin of Project: Legislative mandate.</p> <p>Resources: LSO</p> <p>Key Objective Supported: 3</p>	Ongoing	

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	<p>may “crossover” from probate court into juvenile dependency court. The committees will evaluate and discuss the impact of recent legislation (AB 1757 (Stats. 2012, ch. 638)) relevant case law.</p>				
20.	<p>Juvenile Custody Orders Both family and juvenile courts have expressed frustration at the inability of the current Custody Order—Juvenile—Final Judgment (form JV-200) and Visitation Order—Juvenile (form JV-205) to capture the juvenile court’s findings and orders to the extent needed for compliance with the terms of the orders by the parties and for the enforcement or modification of the orders by the family court. The committee will propose and recommend circulation of revisions to the forms designed to reduce the number of enforcement and modification disputes filed in family court and to promote more efficient resolution of any such disputes that do arise by increasing the level of specificity solicited by the forms and incorporating</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Committee charge</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 1</p>	Jan. 1, 2016	Forms would be updated

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	language more familiar to the family court bench and bar.				
21.	<p>Court Coordination and Efficiencies Review promising practices that enhance coordination and increase efficient use of resources across case types involving families and children including review of unified court implementation possibilities, court coordination protocols, and methods for addressing legal mandates for domestic violence coordination so as to provide recommendations for education content and related policy efforts.</p>	2	<p>Judicial Council Direction: Committee charge under CRC 10.43</p> <p>Origin of Project: Committee charge</p> <p>Resources: CFCC staff and members</p> <p>Key Objective Supported: 3</p>	Ongoing	Recommendations may be provided to related groups and expertise will be offered to courts contacting committee and staff
22.	<p>Indian Child Welfare Act Rules and Forms In conjunction with the Tribal Court-State Court Forum and Probate and Mental Health Advisory Committee monitor pending California Supreme Court case <i>In re Abigail A.</i> (2014) 173 Cal.Rptr.3d 191(3rd District) for possible amendments to rules 5.482(c) and 5.484(c)(2); concurrently amend <i>Notice of Child Custody Proceeding for Indian Child</i> (ICWA-030) in light of that decision and <i>In re S.E.</i></p>	2	<p>Judicial Council Direction: Committee charge</p> <p>Origin of Project: Case law change</p> <p>Resources: LSO</p> <p>Key Objective Supported: 2</p>	January 1, 2017.	

#	Project ³	Priority ⁴	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	(2013) 217 Cal. App. 4th 610 (2nd District).				
23.	<p>Consider Mental Health Issues Implementation Task Force Referrals</p> <p>Review and consider recommendations referred by the Judicial Council following the task force’s final report to the council. Recommend appropriate action within the committee’s purview.</p>	2	<p>Judicial Council Direction: As referred by the council</p> <p>Origin of Project: Judicial Council</p> <p>Resources: LSO, CFCC, Criminal Services Office</p> <p>Key Objective Supported: 2 and 3</p>	Ongoing	

III. STATUS OF 2014 PROJECTS:

[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1.	<p>Family Law: Firearms Relinquishment Procedure In collaboration with the Domestic Violence Practice and Procedure Task Force, develop model protocol or proposed rule relating to firearms relinquishment in proceedings under the Domestic Violence Prevention Act. The task force will take the lead in developing a family law firearms relinquishment proposal in consultation with the Family & Juvenile Law Advisory Committee and the task force and the advisory committee will consider a joint proposal for circulation.</p> <p>Domestic Violence: Firearms Relinquishment in Family and Juvenile Law Restraining Order Cases (Adopt Cal. Rules of Court, rule 5.495) http://www.courts.ca.gov/documents/jc-20140425-itemA6.pdf</p>	Effective July 1, 2014.
2.	<p>Family Law: Revise FL-300 Propose revisions to forms to respond to requests from litigants and court professionals about new FL-300:</p> <ul style="list-style-type: none"> • <i>Request for Order</i> (form FL-300); • <i>Information Sheet for Request for Order</i> (FL-300-INFO); • <i>Temporary Emergency Court Orders</i> (form FL-305) <p>Technical changes so forms refer to <i>Request for Order</i> rather than <i>revoked forms</i>:</p> <ul style="list-style-type: none"> • <i>Notice and Acknowledgment of Receipt</i> (form FL-117) • <i>Child Custody and Visitation Order Application Attachment</i> (form FL-311) • <i>Order to Pay Waived Court Fees and Costs</i> (form FL-336) • <i>Application to Set Aside Order to Pay Waived Court Fees</i> (form FL-337) • <i>Request for Child Abduction Prevention Orders</i> (form FL-312) • <i>Child Custody and Visitation Order Attachment</i> (form FL-341) 	<p>Circulated in July 1, 2014. More consideration needed (see above in current agenda)</p> <p>In light of the changes to federal and state laws legalizing marriages between persons of the same sex, the Judicial Council approved the use of one petition (Petition—Marriage/Domestic Partnership (form FL-100)) and one response (Response—Marriage/Domestic Partnership (form FL-120)) in actions for dissolution, legal separation, or nullity of a marriage or domestic partnership. The council also revoked forms Petition—Domestic Partnership/Marriage (form FL-103) and Response—Domestic Partnership/Marriage (form FL-123), which were previously</p>

	<ul style="list-style-type: none"> • <i>Additional Provisions—Physical Custody Attachment</i> (FL-341(D)) • <i>Joint Legal Custody Attachment</i> (form FL-341(E)) • <i>Notice of Delinquency</i> (FL-485) • <i>Application to Determine Arrearages</i> (form FL-490) <p>Propose clarifying changes to new rules</p> <ul style="list-style-type: none"> • Rule 5.92. <i>Request for Order; response</i> • Rule 5.94. <i>Order Shortening Time; Other filing requirements</i> 	<p>adopted for use by persons in a same-sex marriage or domestic partnership (or both); amend rule 5.76 (Domestic partnership); and revised other forms so they conform to these changes. In addition, the council revised forms FL-100 and FL-120 to implement amendments to Family Code sections 2310–2312 (Assem. Bill 1847; Stats. 2014, ch. 144), effective January 1, 2015, by deleting references to the term “incurable insanity” and replacing them with the term “permanent legal incapacity to make decisions.”</p>
3.	<p>Review and consider issues raised by the Court Executives Advisory Committee, regarding authorizing e-filing of documents in juvenile cases (authorize, not require).</p>	<p>Effective January 1, 2015 to allow courts time to develop local rules.</p>
4.	<p>Mandatory E-Filing: Draft Uniform Rules To Implement Assembly Bill 2073 (Silva) Comment on a proposed set of draft rules on mandatory e-filing in the trial courts.</p>	<p>Effective January 1, 2015 to allow courts time to develop local rules.</p>
5.	<p>Juvenile Law: Confidentiality of juvenile court records; tribal access Collaborate with the State Court/Tribal Court Forum to develop a legislative proposal to allow a child’s Indian tribe to inspect and copy juvenile court records under Welf. & Inst. Code § 827.</p>	<p>Approved by Policy Coordination and Liaison Committee, October 2013; forwarded to Judicial Council for consideration in December 2013/Completed</p>
6.	<p>Juvenile Law: Juvenile Dependency Counsel Reimbursement Program Guidelines Propose guidelines for allocating funds to the trial courts collected from reimbursements from clients receiving court appointed dependency counsel services.</p>	<p>Guidelines approved by the Judicial Council, August 2013/Completed.</p>
7.	<p>Juvenile Law: Competency issues To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Mental Health Task Force and Collaborative Justice Courts Advisory Committee to consider developing recommendations to the Judicial Council to: (1) revise rule 5.645 to define appropriate evaluation tools for use with juveniles, (2) amend legislative language to clarify the presumption of competency, (3) suggest other legislative changes necessary to improve the handling of cases where</p>	<p>Still working on it. Request additional time to complete.</p>

	competency issues are raised, and (4) identify effective practices developed by local courts to address juvenile cases in which competency is a factor.	
8.	Juvenile Law: Private Guardianships In collaboration with the Probate and Mental Health Advisory Committee, consider recommendations for statutory and/or rules and forms amendments related to cases that “crossover” between probate and juvenile courts when child abuse and neglect issues arise in private guardianship actions.	Committee chairs and staff had preliminary discussions during 2013 and require more discussion and evaluation of trial court practices under AB 1757 (Stats. 2012, ch. 638) to determine if further recommendations to the council are warranted.
9.	Fee Waivers: Installment Payments. Provide subject matter expertise on any discussions or draft proposals related to ordering the payment of fees in installments being developed by the Civil and Small Claims Advisory Committee prior to submission to RUPRO or PCLC.	Completed.
10.	Fee Waivers Provide subject matter expertise and early review of draft proposals from Civil and Small Claim Advisory Committee on rule 3.55, which lists specific fees that must and may be waived including those for an interpreter for party and family court investigators or evaluators.	Completed.
11.	Review impact of SB 274 (parentage) on the branch and, as needed, consider any changes to rules, forms, or other policies that the council may need to consider as being required as a result of the legislation.	Collected input and will continue to receive information.
12.	Family Law: Preliminary Declaration of Disclosure/Family Code 2104(b) & 2106 Develop recommendation for amending statute(s) to no longer require a proof of service for the Preliminary Declaration of Disclosure. In the alternative, consider proposal requiring service information for both the Preliminary and Final Declaration of Disclosure be included on the Declaration Regarding Service of Declaration of Disclosure (FL-141).	
13.	Protective Orders Forms Working Group (POWG) In conjunction with participating advisory groups, consider new or revised forms to modify or terminate a DVPA restraining order.	F&J will consider whether to propose new forms to modify and/or terminate a DVPA order. Civil and Small Claims Advisory Committee has decided to propose forms for use in CH, EA, WV and other civil restraining order matters.

	Forms would implement Assembly Bill 454, which specifies personal service requirements when anyone other than the protected party requests to modify or terminate a restraining order. Forms would also implement Family Code section 6380(f) which specifies that if a court issues a modification, extension or termination of a DVPA order, it must be on forms adopted by the Judicial Council and approved by the Department of Justice. The Civil and Small Claims Advisory Committee plans to propose new forms to modify or terminate a restraining order issued in Civil Harassment, Elder and Dependent Adult Abuse and other civil restraining order matters.	F&J is coauthor with Civil and Small Claims Advisory Committee (if committee decides to propose the forms) Rule 3.1152(e), 527.6(m), form CH-115 New legislation Note: F&J will consider whether to propose new legislation for DVPA matters. Civil and Small Claims Advisory Committee has decided to propose legislation applicable to all other civil restraining order matters and to revise a rule that is applicable only to civil matters. Rule would clarify circumstances under which the court could issue a continuance or reissuance of a restraining order and other specifics.
14.	Judicial Council Forms: Change in Federal Poverty Guidelines (Amend forms FW-001, APP-015/FW-015-INFO, and JV-132) http://www.courts.ca.gov/documents/jc-20140220-itemA3.pdf	Completed effective July 1, 2014.
15.	Domestic Violence: Firearms Relinquishment in Family and Juvenile Law Restraining Order Cases (Adopt Cal. Rules of Court, rule 5.495) http://www.courts.ca.gov/documents/jc-20140425-itemA6.pdf	Completed effective July 1, 2014.
16.	Domestic Violence: Changes to Rule and Forms for Family and Juvenile Law Restraining Orders (Amend Cal. Rules of Court, rule 5.630; revise forms DV-100, DV-110, DV-120, DV-120-INFO, DV-130, DV-180, DV-710, DV-800/JV-252, DV-800-INFO/JV-252-INFO, JV-200, JV-205, JV-247, JV-250, and JV-255) http://www.courts.ca.gov/documents/jc-20140425-itemA7.pdf	Completed effective July 1, 2014.
17.	Family Law: Petition and Response for Dissolution, Legal Separation, and Nullity of Marriage and Domestic Partnership (Amend Cal. Rules of Court, rule 5.76; revise forms FL-100, FL-107-INFO, FL-110, FL-115, FL-117, and FL-120; revoke forms FL-103, and FL-123) http://www.courts.ca.gov/documents/jc-20141028-itemA9.pdf Family Law: Petition—Marriage/Domestic Partnership Form FL-103 proposal to revise form to conform to the decisions	Completed effective January 1, 2015.

	issued by the United States Supreme on June 26, 2013, in <i>United States v. Windsor</i> (No.12-307), striking down the federal Defense of Marriage Act and <i>Hollingsworth v. Perry</i> (No. 12-144).	
18.	Family and Juvenile Law: Parentage (Amend Cal. Rules of Court, rules 5.510, 5.635, 5.650, 5.668, 5.695, 5.708, 5.710, 5.720, 5.725, 5.740, 5.790; revise Judicial Council forms FL-210, FL-240) http://www.courts.ca.gov/documents/jc-20141028-itemA11.pdf	Completed effective January 1, 2015.
19.	Juvenile Dependency: Information Form for Parents (Revoke forms JV-050 and JV-055; approve new optional form JV-050-INFO) http://www.courts.ca.gov/documents/jc-20141028-itemA13.pdf	Completed effective January 1, 2015.
20.	Juvenile Dependency: Attorney Training (Amend Cal. Rules of Court, rule 5.660) http://www.courts.ca.gov/documents/jc-20141028-itemA12.pdf Assembly Bill 868: Courts: training programs: gender identity and sexual orientation (Expands training requirements for judges, referees, commissioners, mediators, Court Appointed Special Advocate, and others who work in family law cases to include the effects of gender, gender identity, sexual orientation, and cultural competency and sensitivity training regarding lesbian, gay, bisexual, and transgender youth.)	Completed effective January 1, 2015.
21.	Appellate Procedure: Record in Juvenile Appeals (Amend Cal. Rules of Court, rules 5.661, 8.409, 8.410, and 8.416) http://www.courts.ca.gov/documents/jc-20141028-itemA4.pdf Record on appeal – juvenile cases: Provide early review of Appellate Advisory Committee draft proposal or discussion on whether to recommend rule amendments that would eliminate the automatic preparation of a copy of the record for non-appealing minors.	Completed effective January 1, 2015.
22.	Appellate Procedure: Extensions of Time to File Briefs (Amend Cal. Rules of Court, rule 8.212; revise form APP-006; and approve new optional forms CR-126, JV-816, JV-817, APP-012, and APP-031) http://www.courts.ca.gov/documents/jc-20141028-itemA2.pdf	Completed effective January 1, 2015.

23.	Rules and Forms: Miscellaneous Technical Changes (Revise forms FL-192, FL-410 and JV-401) http://www.courts.ca.gov/documents/jc-20141028-itemA15.pdf	Completed effective January 1, 2015.
24.	Child Support: Revise Income Withholding for Support and Related Instructions (Revise forms FL-195 and FL-196) http://www.courts.ca.gov/documents/jc-20141028-itemA8.pdf	Completed effective January 1, 2015.
25.	Fee Waivers: Payments Over Time and Specific Fees Included in Waivers (Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO) http://www.courts.ca.gov/documents/jc-20141028-item5.pdf	Completed effective January 1, 2015.
26.	Provide subject matter expertise to the council by providing recommendations for rules and forms required by recent legislative changes.	<p>Bills necessitating new or amended rules and forms noted above. Upon review, the following bills did not necessitate action by this committee.</p> <ul style="list-style-type: none"> • Assembly Bill 238: Protective orders: California Restraining and Protective Order System (Deletes the requirement that a law enforcement officer who requests an emergency protective order carry copies of the order while on duty. (Fam. Code, §6273.) Instead, requires that a law enforcement officer who requests an emergency protective order to enter the order into computer system maintained by the Department of Justice. (Fam. Code, §6271(d).)) <p>Bill was incorporated into the EPO-001 proposal – effective 1/1/14.</p> <ul style="list-style-type: none"> • Assembly Bill 307: Protective orders (Expands a court's authority to issue protective stay-away orders valid for up to 10 years against a party who has been convicted of rape, spousal rape, or any crime requiring the party to register as a sex offender pursuant to Penal Code §290. Expands the list of protective stay-away the violation of which results in a misdemeanor contempt conviction.) <p>Bill applies exclusively to criminal protective orders, no civil action</p>

		<p>necessary.</p> <ul style="list-style-type: none"> • Assembly Bill 522: Civil actions: exceptions to dismissal for delay in prosecution (Expands the types of dissolution cases that are exempt from dismissal for delay in prosecution.) <p>Bill does not require rules and forms. Instead is a training issue for clerks, judicial officers, and self help center staff.</p>
27.	<p>Certification of Child Support Calculator Software Review and approve certifications of child support calculator software pursuant to Family Code section 3830 and California Rule of Court 5.275, including review of necessary changes as a result of Senate Bill 274 (parentage).</p>	<p>Child support calculator software anticipated to be provided for council review for certification by Spring 2015.</p>
28.	<p>Juvenile Law: Confidentiality of Juvenile Court Records Consider efficiencies and court savings that could be realized by legislative and/or rules changes to procedures for access to juvenile court records under Welf. & Inst. Code § 827.</p>	<p>Developed information materials for guidance pending legislative resolution.</p>

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups:

Subcommittee or working group name: Family Law Subcommittee

Purpose of subcommittee or working group: Focus on family law rules, forms, legislation, and other advisory committee efforts, as directed by the council.

Number of advisory group members: Approximately 17

Number and description of additional members (not on this advisory group):

Date formed: At establishment of the advisory committee

Number of meetings or how often the group meets: By teleconference, as needed; annually, one in person meeting in conjunction with full committee meeting

Ongoing or date work is expected to be completed: Ongoing

Subcommittee or working group name: Juvenile Law Subcommittee

Purpose of subcommittee or working group: Focus on juvenile law rules, forms, legislation, and other advisory committee efforts, as directed by the council.

Number of advisory group members: Approximately 17

Number and description of additional members (not on this advisory group): 0

Date formed: At establishment of the advisory committee

Number of meetings or how often the group meets: By teleconference, as needed; one in person meeting annually in conjunction with full committee meeting

Ongoing or date work is expected to be completed: Ongoing

Subcommittee or working group name: Protective Orders Forms Working Group (includes representatives from the Civil and Small Claims Advisory Committee and Criminal Law Advisory Committee)

Purpose of subcommittee or working group: This working group was established at the direction of RUPRO to coordinate advisory committees' activities concerning protective orders that prevent domestic violence, civil harassment, elder and dependent abuse, and school place violence. The group assists in ensuring that there is consistency and uniformity, to the extent appropriate, in the different protective orders used in family, juvenile, civil, probate and criminal proceedings. The working group helps advisory committees and the Judicial Council by developing and updating Judicial Council protective order forms. It also reviews pending legislation and suggests new legislation to improve protective orders. It prepares proposals changes to the rules of court on protective orders, as necessary or appropriate. The Council has indicated that this advisory committee is to serve as lead for the Protective Orders Forms Working Group.

Number of advisory group members: 8

The Family and Juvenile Law Advisory Committee has 8 members who participate in the Protective Orders Working Group.

Number and description of additional members (not on this advisory group):

In addition to the 8 members from Family and Juvenile Law Advisory Committee, there are 6 members from other advisory groups on the Protective Orders Working Group: Civil and Small Claims (5), Criminal (1), and Domestic Violence Practice and Procedure Task Force (1). There is one former member of the Civil and Small Claims Advisory Committee (a retired commissioner) who is still participating in the group. There is a vacant position for a member of the Probate and Mental Health Advisory Committee.

Date formed: In 2007, at the direction of RUPRO. The formation of an interdisciplinary group to address protective order issues was originally suggested by the Chair of RUPRO in August 2006.

Number of meetings or how often the group meets:

Approximately 6-8 telephone meetings annually, depending on extent of business. (All meetings are by telephone.)

Ongoing or date work is expected to be completed:

Some core working group activities are ongoing—such as updating Judicial Council forms and reviewing legislation. Other activities—such as developing proposed Judicial Council-sponsored legislation—are projects of a specific duration.

Subcommittee or working group name: Violence Against Women Education Program Committee

Purpose of subcommittee or working group: Per Judicial Council referral, VAWEF will continue to provide guidance and evaluation of the VAWEF grant-funded projects and make recommendations to improve court practice and procedure in domestic violence cases as directed by the Family and Juvenile Law Advisory Committee and as approved in the advisory committee's annual agenda.

As indicated by the Judicial Council, VAWEF will request that the chair of the Criminal Law Advisory Committee select one or more members of that advisory committee to serve on VAWEF to help address questions relating to court practice and procedure in criminal domestic violence matters.

Date formed: 2003 as a committee; designated as a subcommittee by Judicial Council action, August 22, 2014.

Number of meetings or how often the group meets: 1 in person meeting anticipated

Ongoing or date work is expected to be completed: Ongoing.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

January 28, 2015

Action Requested

Approve Addition to Annual Agenda

To

Judicial Council Rules and Projects
Committee

Deadline

March 19, 2015

From

Family and Juvenile Law Advisory
Committee

Contact

Audrey Fancy
415-865-7706 phone
audrey.fancy@jud.ca.gov

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Subject

Addition of Project to Annual Agenda:
Juvenile Law: Proceedings Before a Referee

Executive Summary

Rule 5.538(b)(3) is inconsistent with Welfare and Institutions Code section 248, subdivision (b)(1) and must be amended to conform to existing law and to prevent unnecessary appellate delays. Welfare and Institutions Code section 248(b)(1) was amended by Senate Bill 179 effective January 1, 2011, to provide that if the parent, guardian, or child is present in court at the time the referee's findings and orders are made, then the orders and rehearing rights may be personally served. Otherwise, under subdivision (b)(2), service must be by mail to the last known or designated address.

Action Requested

The Family and Juvenile Law Advisory Committee asks that the Rules and Projects Committee approve adding to the 2015 Annual Agenda of the Family and Juvenile Law Advisory Committee:

New item 24 **Juvenile Law: Proceedings Before a Referee:**

Propose changes to rule 5.538 required by recent legislative changes as a result of Senate Bill 179 (Stats. 2010, ch. 66).

Basis for Request

Background

Under California Rules of Court, rule 10.43 the Family and Juvenile Law Advisory Committee “makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children.” Welfare and Institutions Code section 248(b)(1) was amended by Senate Bill 179 effective January 1, 2011, to provide that if the parent, guardian, or child is present in court at the time the referee’s findings and orders are made, then the orders and rehearing rights may be personally served. Otherwise, under subdivision (b)(2), service must be by mail to the last known or designated address. Rule 5.538(b)(3) is now inconsistent with this statute. Subdivision (b)(1) and (b)(3) of the rule currently read:

Serve the parent and guardian, and counsel for the child, parent, and guardian, a copy of the findings and order, with a written explanation of the right to seek review of the order by a juvenile court judge. Service must be by mail to the last known address and is deemed complete at the time of mailing.

The committee proposes amending subdivision (b)(3) in the Spring 2015 cycle to conform to existing law and to prevent unnecessary appellate delays.

Annual Agenda

The Family and Juvenile Law Advisory Committee proposes that new item 24 Juvenile Law: Proceedings Before a Referee be added to its Annual Agenda. The Priority of the item is 1(b); the Specifications for the items would be:

- Judicial Council Direction: Committee charge under rule 10.43
- Origin of Project: Legislative mandate.
- Resources:
- Key Objective Supported:
 - Provide recommendations to the Judicial Council to enable the Judicial Council to fulfill legislative mandates for changes to or new statewide rules and forms.
 - Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law

The proposed Completion Date would be January 1, 2016.



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MEMORANDUM

Date

January 28, 2015

Action Requested

Approve Addition to Annual Agenda

To

Judicial Council Rules and Projects
Committee

Deadline

March 19, 2015

From

Family and Juvenile Law Advisory
Committee

Contact

Audrey Fancy
415-865-7706 phone
audrey.fancy@jud.ca.gov

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

Subject

Addition of Project to Annual Agenda:
Juvenile Law: Juvenile Delinquency:
Documenting Wobbler Determination (JV-
665)

Executive Summary

Form JV-665 is an optional disposition form used in delinquency cases which sets forth required findings and orders. At item 3, the form provides space to designate an offense as a felony or misdemeanor as required by Welfare and Institutions Code section 702.¹ In the recent unpublished case, *In re S.J.* (H040997) the court noted that the language on the form is unclear with regards to the court determining whether an offense is a felony or misdemeanor and in a footnote suggested that the Judicial Council consider modifying the form.

¹ “Welf. & Inst § 702: If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

Action Requested

The Family and Juvenile Law Advisory Committee asks that Judicial Council Rules and Projects Committee approve adding to the 2015 Annual Agenda of the Family and Juvenile Law Advisory Committee:

New item 25 **Juvenile Delinquency: Documenting Wobbler Determination (JV-665):**

Provide subject matter expertise to the council by providing recommendations for change to form JV-665 suggested by the recent unpublished appellate decision *In re S.J.* (H040997).

Basis for Request

Background

Under California Rules of Court, rule 10.43 the Family and Juvenile Law Advisory Committee “makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children.” At the recommendation of the Family and Juvenile Law Advisory Committee, the Judicial Council adopted form JV-665 effective January 1, 2006 and subsequently, effective January 1, 2012, made modifications to the form including changing JV-665 from a mandatory form to an optional form.

Form JV-665 is an optional disposition form used in delinquency cases which sets forth required findings and orders. At item 3, the form provides space to designate an offense as a felony or misdemeanor as required by Welfare and Institutions Code section 702.² Item 3 currently reads: “The court previously sustained the following counts. Any charges which may be considered a misdemeanor or a felony for which the court has not previously specified the level of offense are now determined to be as follows:”.

In the case, *In re Manzy W.* (1997) 14 Cal. 4th 1199, the California Supreme Court concluded that section 702 is unambiguous and “requires an explicit declaration by the juvenile court whether an offense would be a felony or misdemeanor in the case of an adult.” (*Id.* at p. 1204.) But further noted that “the record in a given case may show that the juvenile court, despite its failure to comply with the statute, was aware of, and exercised its discretion to determine the felony or misdemeanor nature of a wobbler.” (*Id.* at p. 1209.) The current language at item 3 was drafted to comply with *Manzy W.*; however, a recent unpublished case noted that the language on the form is unclear with regards to the court determining whether an offense is a felony or misdemeanor and in a footnote suggested that the Judicial Council consider modifying the form. See *In re S.J.* (H040997), footnote 6:

We take judicial notice of the existence and contents of the Judicial Council’s form order entitled JURISDICTION HEARING—JUVENILE DELIQUENCY (JV-644 [Rev. Jan. 1,

² “Welf. & Inst § 702: If the minor is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.

2012]). (See Evid. Code, §§ 452, subd. (c), 459.) The form provides space for a court to list allegations that have been admitted and found true after the child's admission or no contest plea. By checking the appropriate box, the court may declare each listed statutory violation to be a misdemeanor or a felony or it may indicate the status of the statutory violation will be specified at disposition. It contains additional preprinted language with respect to those allegations: "The court has considered whether the above offense(s) should be felonies or misdemeanors." A juvenile court adopts this language by checking the adjacent box. The Judicial Council may wish to consider revising Judicial Council form JV-665 to provide for the identification or separately listing of each statutory violation that "would in the case of an adult be punishable alternatively as a felony or a misdemeanor" (§ 702) and to clearly reflect that the court is exercising its discretion pursuant to section 702 and explicitly declaring the status of each such offense. The rebuttable presumption that official duty is regularly performed (see Evid. Code, §§ 660, 664) would answer any concern that a clerk filled out the form and the judge signed it unthinkingly without exercising discretion. (See *People v. Visciotti* (1992) 2 Cal.4th 1, 49 ["In the absence of any indication to the contrary we presume, as we must, that a judicial duty is regularly performed. [Citations.]"].) presumption that official duty is regularly performed (see Evid. Code, §§ 660, 664) would answer any concern that a clerk filled out the form and the judge signed it unthinkingly without exercising discretion. (See *People v. Visciotti* (1992) 2 Cal.4th 1, 49 ["In the absence of any indication to the contrary we presume, as we must, that a judicial duty is regularly performed. [Citations.]"].)

Annual Agenda

The Family and Juvenile Law Advisory Committee proposes that new item 25 Juvenile Delinquency: Documenting Wobbler Determination (JV-665) be added to its Annual Agenda. The Priority of the item is 1(a); the Specifications for the items would be:

- Judicial Council Direction: Committee charge under rule 10.43
- Origin of Project: Appellate Decision
- Resources:
- Key Objective Supported:
 - Provide recommendations to the Judicial Council to enable the Judicial Council to fulfill legislative mandates for changes to or new statewide rules and forms.
 - Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law.

The proposed Completion Date would be January 1, 2016.



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MEMORANDUM

Date

January 28, 2015

Action Requested

Approve Addition to Annual Agenda

To

Judicial Council Rules and Projects
Committee

Deadline

March 19, 2015

From

Family and Juvenile Law Advisory
Committee

Contact

Julia F. Weber
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julia.weber@jud.ca.gov

Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Subject

Addition of Project to Annual Agenda:
Family Law/Domestic Violence:
Amendments to Domestic Violence Form,
“Get Ready for the Court Hearing” (DV-520-
INFO)

Executive Summary

DV-520-INFO is an informational form available for optional use by courts to provide information to litigants about preparing for a domestic violence restraining order hearing, hundreds of which are held each day in courts throughout the state. Courts report finding the form helpful, however, the current version includes information that can be confusing and, as a result, may cause unnecessary difficulties and delays at hearings. Rather than continuing to provide legally inaccurate information, some courts have chosen not to use the form and do not have a substitute readily available. Additionally, this form remains on the public website so litigants may be relying upon it to their detriment. The committee seeks to amend the form in this cycle so that is clearer, legally accurate, and as a result, accomplishes the original goal in adopting the form: to inform litigants and assist in making these complex and important hearings run more smoothly.

Action Requested

The Family and Juvenile Law Advisory Committee asks that the Judicial Council Rules and Projects Committee approve adding to the 2015 Annual Agenda of the Family and Juvenile Law Advisory Committee:

New item 26 Family Law/Domestic Violence: Amend “Getting Reading for the Court Hearing” (DV-520-INFO):

Propose amendments to correct information on the form and improve the availability of information for litigants, including self-represented litigants, on preparing for court hearings so as to reduce confusion and delay at court hearings.

Basis for Request

Background

Under California Rules of Court, rule 10.43 the Family and Juvenile Law Advisory Committee “makes recommendations to the Judicial Council for improving the administration of justice in all cases involving marriage, family, or children.” A trial court judge contacted the committee, commenting that the form can be incredibly helpful to litigants, especially self-represented litigants, who are often confused about how to prepare for domestic violence restraining order hearings. However, because some of the information on the form may be read to suggest that evidence offered by the litigants will always be accepted by the judge, this judge and others have chosen not to provide the form out of concern that it may be confusing and misleading. The committee agrees that given the value of the form and the need to provide litigants with helpful information so as to assist in hearings running more smoothly, it is important to propose amendments correcting these inaccuracies thereby improving the form and enabling courts to more routinely make it available.

Annual Agenda

The Family and Juvenile Law Advisory Committee proposes that new item 26 Family Law/Domestic Violence: Amend “Getting Reading for the Court Hearing” (DV-520-INFO)

The Priority of the item is 1(a). The specifications for the items would be:

- Judicial Council Direction: Committee charge under rule 10.43
- Origin of Project: Request from trial courts
- Resources:
- Key Objective Supported:
 - Provide recommendations to the Judicial Council to enable the Judicial Council to fulfill legislative mandates for changes to or new statewide rules and forms.
 - Coordinate with related advisory groups to fulfill council directives in the area of domestic violence, family law, and juvenile law.

The proposed Completion Date would be January 1, 2016.

**Review and Discussion of the Status of
Referrals and Related Chief
Justice/Advisory Committee/Task
Force/Division Initiatives**

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- Courts
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Policy & Administration

Chief Justice Tani G. Cantil-Sakauye

Judicial Council

- Judicial Council Meetings
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Advisory Bodies

- Meetings Calendar
- Strategic & Operational Planning
- Judicial Council Staff

Budget & Finance

Efficiencies & Innovation

Facilities

Invitations to Comment

Governmental Affairs

Advisory Committee on Providing Access and Fairness

Purpose:

The committee makes recommendations for improving access to the judicial system, fairness in the state courts, diversity in the judicial branch, and court services for self-represented parties.

In addition to the duties described in rule 10.34, the committee must recommend to the [Governing Committee of the Center for Judicial Education and Research](#), proposals for the education and training of judicial officers and court staff.

Date Established: 2014.

- MEETINGS
- MEMBERS
- ABOUT**

RELATED LINKS

- Self-Help Centers
- Americans with Disabilities Act (ADA) (42 U.S.C. § 12101 et seq.)
- U.S. Dept. of Justice's ADA Disability.gov
- California Dept. of Rehabilitation
- California Foundation for Independent Living Centers (CFILC)
- California Assistive Technology Systems (CATS)

The committee makes recommendations for improving access to the judicial system, fairness in the state courts, diversity in the judicial branch, and court services for self-represented parties. In addition to the duties described in rule 10.34, the committee must recommend to the Governing Committee of the Center for Judicial Education and Research, proposals for the education and training of judicial officers and court staff.

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IMPLEMENTATION
PROGRESS REPORT

California Blue Ribbon Commission on
Children in Foster Care

BUILDING A
BRIGHTER
FUTURE FOR
CALIFORNIA'S
CHILDREN

Making Progress in
Tough Economic
Times



AUGUST 2010



ADMINISTRATIVE OFFICE
OF THE COURTS

CENTER FOR FAMILIES, CHILDREN
& THE COURTS

About the Blue Ribbon Commission on Children in Foster Care

On March 9, 2006, Chief Justice Ronald M. George established the California Blue Ribbon Commission on Children in Foster Care and appointed as its chair Associate Justice Carlos R. Moreno of the Supreme Court of California. The commission was charged with providing recommendations to the Judicial Council of California on the ways in which the courts and their partners can improve safety, permanency, well-being, and fairness for children and families in the child welfare system.

The commission developed sweeping recommendations to reform the juvenile dependency court and foster care systems, and the Judicial Council unanimously accepted them in August 2008. The commission released to the public its recommendations and an action plan for their implementation in May 2009. In June 2009, the Chief Justice extended the commission for three years and added implementation activities to its charge.

The commission consists of members from a variety of disciplines, including judges, legislators, child welfare administrators, former foster youth, caregivers, philanthropists, tribal leaders, advocates for children and parents, and others providing leadership on the issues that face foster children and their families and the courts and agencies that serve them. The establishment of the commission and its ongoing work builds on ongoing Judicial Council efforts to improve California's juvenile courts and is consistent with goals and objectives adopted by the Judicial Council.

This is the commission's first implementation progress report, documenting the efforts of local and statewide collaborations to advance the commission's recommendations and to begin the process of implementing sweeping reforms to the juvenile dependency court and child welfare systems in California.

**IMPLEMENTATION
PROGRESS REPORT**

**California Blue Ribbon Commission on
Children in Foster Care**

**BUILDING A
BRIGHTER
FUTURE FOR
CALIFORNIA'S
CHILDREN**

**Making Progress in
Tough Economic
Times**



AUGUST 2010



**ADMINISTRATIVE OFFICE
OF THE COURTS**

**CENTER FOR FAMILIES, CHILDREN
& THE COURTS**

Judicial Council of California
Administrative Office of the Courts
Center for Families, Children & the Courts
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For more information on the California Blue Ribbon Commission on Children in Foster Care or to view this report and other commission materials online, please visit www.courtinfo.ca.gov/blueribbon. To order copies of the report, please call 415-865-7739.

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Administrative Office of the Courts**

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Hon. John Burton
Former President pro Tempore
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John Burton Foundation for
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Message from the Chair

I am pleased to present the first implementation progress report from the California Blue Ribbon Commission on Children in Foster Care. The report documents, through June 30, 2010, statewide and local efforts to implement the commission's comprehensive recommendations to help California's overstressed juvenile dependency courts do a better job of safeguarding children, reducing the need for foster care, and improving the foster care system.

Last June, Chief Justice Ronald M. George extended our charge to include implementation activities and reappointed most of the commissioners. We, along with many statewide and local partners, have been actively working on implementation for the past year.

I am impressed by how much has been accomplished at the federal, state, and local levels that significantly advances our goals of changing the way juvenile courts do business and reforming the foster care system in California—accomplishments that have occurred despite the serious budgetary and economic challenges. I believe that this progress demonstrates the transformative power of collaboration, as all of the state's child welfare partners—courts, social services, education, health, mental health, philanthropic organizations, CASA, tribes, collaborative advisory bodies, and others—both statewide and locally, have taken up the challenge of making a difference for our children in foster care.

The Public Policy Institute of California recently released its report, *Foster Care in California: Achievements and Challenges*, which noted that California's foster care system "has made some remarkable advances in the last decade." Specifically it documented great progress in moving children out of foster care. In fact, California has seen a 45 percent drop in share of children in the system, mainly by shortening the time that most children spend in foster care. But the report noted significant challenges that remain; we have our work cut out for us as we move forward into another year of implementation. Though we are having some success at the backend of the foster care process—reducing the length of stay and the number of placement changes, we still have much to do at the front end—preventing placements when possible and finding permanent placements when removal cannot be avoided.

On behalf of the commission, I thank all of our statewide and local partners in this effort to build a brighter future for California's children—your work has been remarkable. Thanks also to our commissioners for their continued unflinching commitment to improving the lives of California's children and families.

Finally, thanks to Chief Justice Ronald M. George; William C. Vickrey, the Administrative Director of the Courts; and the Judicial Council for making significant reform of the juvenile dependency courts and the child welfare system a high priority for California's judicial branch and for offering continued support of this extraordinary attempt to make a real difference in the lives of this state's most vulnerable children and families.

A handwritten signature in black ink that reads "Carlos R. Moreno". The signature is written in a cursive, flowing style.

Carlos R. Moreno
Associate Justice, Supreme Court of California
Chair, California Blue Ribbon Commission on Children in Foster Care

Introduction: Making Progress in Tough Economic Times

After an unparalleled three-year collaborative effort, the California Blue Ribbon Commission on Children in Foster Care submitted to the Judicial Council, in August 2008, a comprehensive set of recommendations for improving California's juvenile dependency courts and child welfare system. In May 2009, the commission released its final report on the recommendations, along with an action plan for implementing them.¹

At the commission's meeting in San Francisco on June 30, 2009, Chief Justice George announced that he was extending the work of the commission until 2012 to help ensure implementation of the commission's recommendations for reform of the state's juvenile dependency courts and foster care system. He was taking that step, as he noted, because the stakes were so high for children and youth who have suffered abuse and neglect, particularly in these difficult economic times when families stand to suffer even more challenges than usual.

This document describes statewide and local implementation efforts to advance the commission's recommendations, and provides a point-in-time progress report on those efforts. The commission anticipates releasing annual implementation progress reports during the remainder of its tenure.

This report highlights the following:

- Legislation, passed and pending, that advances the commission's recommendations;
- Statewide initiatives and collaborative efforts focused on improving the juvenile dependency court and child welfare systems; and
- Local county collaborative efforts to respond to the needs of vulnerable children and their families.

¹ See www.courtinfo.ca.gov/jc/tflists/documents/brc-finalreport.pdf. See also Appendix A, for more information on the Blue Ribbon Commission on Children in Foster Care, and see Appendix B for the Commission's final set of recommendations.

Why We Needed the Blue Ribbon Commission

When Chief Justice Ronald M. George established the California Blue Ribbon Commission on Children in Foster Care on March 9, 2006, the foster care system and dependency courts were underresourced and overstressed.

- California had more than 80,000 children in foster care.
- Most of those—almost 80 percent—had been removed for neglect.
- Nearly half—45 percent—had been in care for more than two years, 17 percent for more than three years.
- African-American and American Indian children were disproportionately represented in the system.
- Fewer than 150 full-time and part-time judicial officers presided over the entire dependency court system.
- Full-time juvenile dependency judges carried an average caseload of 1000, directly affecting the amount of time and attention that could be given to any one case.
- Juvenile dependency court attorneys, who represent children and parents in court, had an average caseload of 273—in some counties caseloads rose to 500 or 600—far exceeding the recommended maximum caseload of 188 adopted by the Judicial Council.
- Children and parents sometimes did not meet their attorneys until moments before their hearings, which limited their opportunity to speak in court, and meant that their attorneys often had inadequate information about a child's life.
- The median time for a hearing was only 10 to 15 minutes, far less than the recommended 30 to 60 minutes.
- Judges were often assigned to juvenile court for short rotations instead of the recommended three years.
- Families were often involved with more than one system, but courts and other agencies did not easily share data or information that might be critical to a family's circumstances.

Concerned that the courts and their child welfare partners, who share responsibility for the safety and well-being of children while they are in foster care, were not always being a very good “parent” to these children, Chief Justice George appointed as commission chair Associate Justice Carlos R. Moreno of the California Supreme Court and charged the commission with providing recommendations to the Judicial Council on ways in which the courts and their partners can improve safety, permanency, well-

being, and fairness for children and families in the child welfare system.

Principles and Values that Guided the Commission's Process

The Blue Ribbon Commission was guided by a set of overarching principles, which were adopted early in its deliberations. Those principles and values have continued to inform its work on implementation:

- All children are equal and deserve safe and permanent homes;
- Efforts to improve the foster care system must focus on improving safety, permanency, well-being, and fairness outcomes for children, and services should be integrated and comprehensive;
- Collaboration is essential for achieving the best possible outcomes for children and families;
- Courts play an important statutory role in overseeing children, families, and services in the dependency system;
- Children and families should have a say in decisions that affect their lives; and
- Government agencies need adequate and flexible funding to provide the best outcomes for children in the foster care system.

A set of values informed the commission's work throughout. Those values were:

- Collaboration;
- Shared responsibility;
- Accountability;
- Leadership;
- Children and families;
- Child safety;
- Inclusion;
- Permanency; and
- Youth voice.

The overarching value was that the voices of the children and youth who were or had been in California's foster care system should be consistently heard and should inform decision-making at all levels. Those voices became the engine that drove the commission's work on developing its recommendations and continues to drive its efforts to implement those recommendations.

The Commission's Action Plan and Priorities for Implementation

Commissioners kept implementation in mind throughout their deliberations. They were determined from the beginning that their recommendations not sit on a shelf gathering dust but be implemented as soon as possible in the hope of improving the lives of children and families and bringing some relief to the state's chronically overstressed juvenile court and child welfare systems.

When the Judicial Council unanimously accepted the commission's final recommendations on August 15, 2008, it directed that implementation of the 26 specific recommendations under its purview get underway immediately. It also directed the commission to develop an action plan in keeping with its principles and values for those recommendations requiring collaboration with court partners. The commission released its action plan for implementation in May 2009.

The commission endorses each of its recommendations as being important and indispensable to the sweeping reform of the foster care and dependency court systems that it envisions. But for its initial action plan the commission took a pragmatic approach, identifying practical first steps that it believed were fiscally responsible and realistically achievable. It also believed that the initial reforms would provide an important and improved foundation for the remaining recommendations and reforms that would follow. Chapter 1 of this report contains the commission's blueprint for foster care reform in California: its action plan highlights and priorities.

Implementation Progress Highlights and Challenges

The commission has been pleased and impressed by how much has been accomplished at the federal, state, and local levels that significantly advances its goals of changing the way juvenile courts do business and reforming the foster care system in California—accomplishments that have occurred despite serious budgetary and economic challenges. Early indications suggest that active court oversight and better representation in the juvenile dependency courts makes a significant difference for the children and families who enter the child welfare system. Members believe that this progress demonstrates the transformative power of collaboration, as all of the state's child welfare partners—courts, social services, education, health, mental health, court-appointed special advocates (CASA), tribes, philanthropic organizations, and

others—both statewide and locally, have taken up the challenge of making a difference for our children in foster care. Nevertheless, challenges remain, and the commission will redouble its efforts in the coming years to make progress on some of the more difficult challenges.

Highlights

Some highlights of implementation progress include the following:

Drop in number of children in foster care is encouraging.

Numbers of children in foster care in California have dropped dramatically over the last decade, attributed in part to a “more intense focus by local and state policymakers on the problems of foster care, which in turn led to innovations in child welfare policies and practices.” In fact, California has seen a 45 percent drop in share of children in the system, mainly by shortening the time that most children spend in foster care. That decline is “most pronounced among black children, who have long been overrepresented in the child welfare system.” Only 2.7 percent of African-American children were in foster care in 2009, compared to 5.4 percent in 2000—certainly still too high a percentage, but encouraging.²

Boost from federal Fostering Connections to Success Act initiates implementation. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008, which is directly responsive to 20 of the Blue Ribbon Commission’s recommendations, gave an early boost to implementation efforts. Offering increased supports for relative caregivers, improved family finding support, more flexibility in the use of federal funds, and support for foster youth until age 21, the legislation provides matching funds to states that opt into its provisions. Some state legislation to implement these provisions has already been passed and chaptered in California, while other legislation is still pending, most notably AB 12, which would provide federally subsidized relative guardianships and extend foster care jurisdiction to age 21. The federal legislation will facilitate the expansion of California’s Kin-GAP program and also gives support for expanded title IV-E waiver projects in the state.

² See Public Policy Institute of California, *Foster Care in California: Achievements and Challenges*, (May 12, 2010), at p.1; available at www.ppic.org/content/pubs/report/R_510CDR.pdf.

“I believe that this progress demonstrates the transformative power of collaboration, as all of the state’s child welfare partners—courts, social services, education, health, mental health, philanthropic organizations, CASA, tribes, collaborative advisory bodies, and others—both statewide and locally, have taken up the challenge of making a difference for our children in foster care.”

—Hon. Carlos R. Moreno
Associate Justice,
Supreme Court of
California; Chair,
California Blue Ribbon
Commission on Children
in Foster Care

Successful statewide collaborative work is underway. Statewide collaborative efforts to reform the foster care system and reduce the number of children in foster care have been impressive. The Blue Ribbon Commission has worked closely with the Child Welfare Council (co-chaired by Justice Carlos R. Moreno, who also chairs the Blue Ribbon Commission, and Kimberly Belshé, Secretary of the California Health and Human Services Agency), the Administrative Office of the Courts, the Co-Investment Partnership, the Statewide Interagency Team, and the California Department of Social Services to prioritize children and families in the foster care system in the allocation of resources and services.

Local foster care commissions are active. There are now more than forty counties with active local foster care commissions, which formed or expanded in response to the Blue Ribbon Commission’s recommendation encouraging their formation. Those local commissions are working in their communities to identify and resolve local systemic concerns, to address the Commission’s recommendations, and to build the capacity to provide a continuum of services to children and families in the foster care system. The Administrative Office of the Courts (AOC) hosted two summits (in 2008 and 2010) to support the work of these local commissions, and is providing ongoing support through its Juvenile Court Assistance Team (JCAT).

Tribal court/state court forum has been established. In May 2010, Chief Justice Ronald M. George established the California Tribal Court/State Court Coalition (now called the California Tribal Court/State Court Forum), the first organization of its kind in the state, to work on areas of mutual concern. Under the leadership of co-chairs Judge Richard Blake, Chief Judge of the Hoopa, Smith River Rancheria, and Redding Rancheria Tribal Courts; and Justice Richard D. Huffman, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One, the coalition will develop measures to improve the working relationship between California’s tribal and state courts. There are already promising tribal court/state court collaborations in a number of counties.

Rapidly expanding educational services give immediate benefit. There has been significant implementation activity in the area of expanding educational services, including a state legislative requirement that college campuses in California give priority for housing to current and former foster youth and remain open for occupation during school breaks; expansion of the California Department of Education, Foster Youth Services Program to 57

counties; and continued statewide collaboration on educational issues through the Foster Youth Education Task Force.

Training for court-appointed counsel is making a difference.

The AOC has continued the work of providing support and training for court-appointed counsel representing parents and children in the juvenile dependency system. Recently, the Judicial Council adopted a competitive solicitation policy applicable to courts participating in the Dependency Representation, Administration, Funding, and Training program, with a goal of maximizing the funding for the court-appointed counsel program and providing transparency and objectivity to the process. The AOC also provides ongoing support and resources through the California Dependency Online Guide, which is offered for free by subscription to attorneys, judicial officers, and other child welfare professionals.

Initial design for court/child welfare data exchange has been completed.

The AOC, working closely with the California Department of Social Services (CDSS) and the Department of Child Support Services (DCSS), has completed the initial design of the California Court Case Management System (CCMS) to ensure that information used in both the court and child welfare systems will be exchanged in real time and accessible to all authorized users. CDSS has incorporated the same data exchange and integration rules into its guidelines for the new Child Welfare Services Web design (CWS/Web). CWS/Web will also incorporate relevant exchanges with other systems, including health and education providers. Although these systems are still some years from full implementation, this level of collaboration in the design of information systems is extremely promising and almost unprecedented, either in California or nationally.

Challenges

Despite this encouraging progress, there are challenges to address before it will be possible to fully implement the commission's recommendations. Some of the most pressing challenges include the following:

Caseload improvements are stalled due to economy. Even with a drop in the number of children in foster care, caseloads for judicial officers, attorneys, and social workers remain unacceptably high in most counties. Economic conditions and budget challenges have slowed progress on lowering these caseloads. The Administrative Office of the Courts will launch its

trial court staffing study in October 2010, which will estimate both judicial and staffing needs for each major case type, including juvenile. The caseload study for attorneys representing parents and children is complete and standards have been set. When resources do become available, there will need to be a strategic targeting of some of those resources to begin a significant reduction of caseloads for the benefit of the children and families in the system.

“We have our work cut out for us as we move forward into another year of implementation. Though we are having some success at the backend of the foster care process—reducing the length of stay and the number of placement changes, we still have much to do at the front end—preventing placements when possible and finding permanent placements when removal cannot be avoided.”

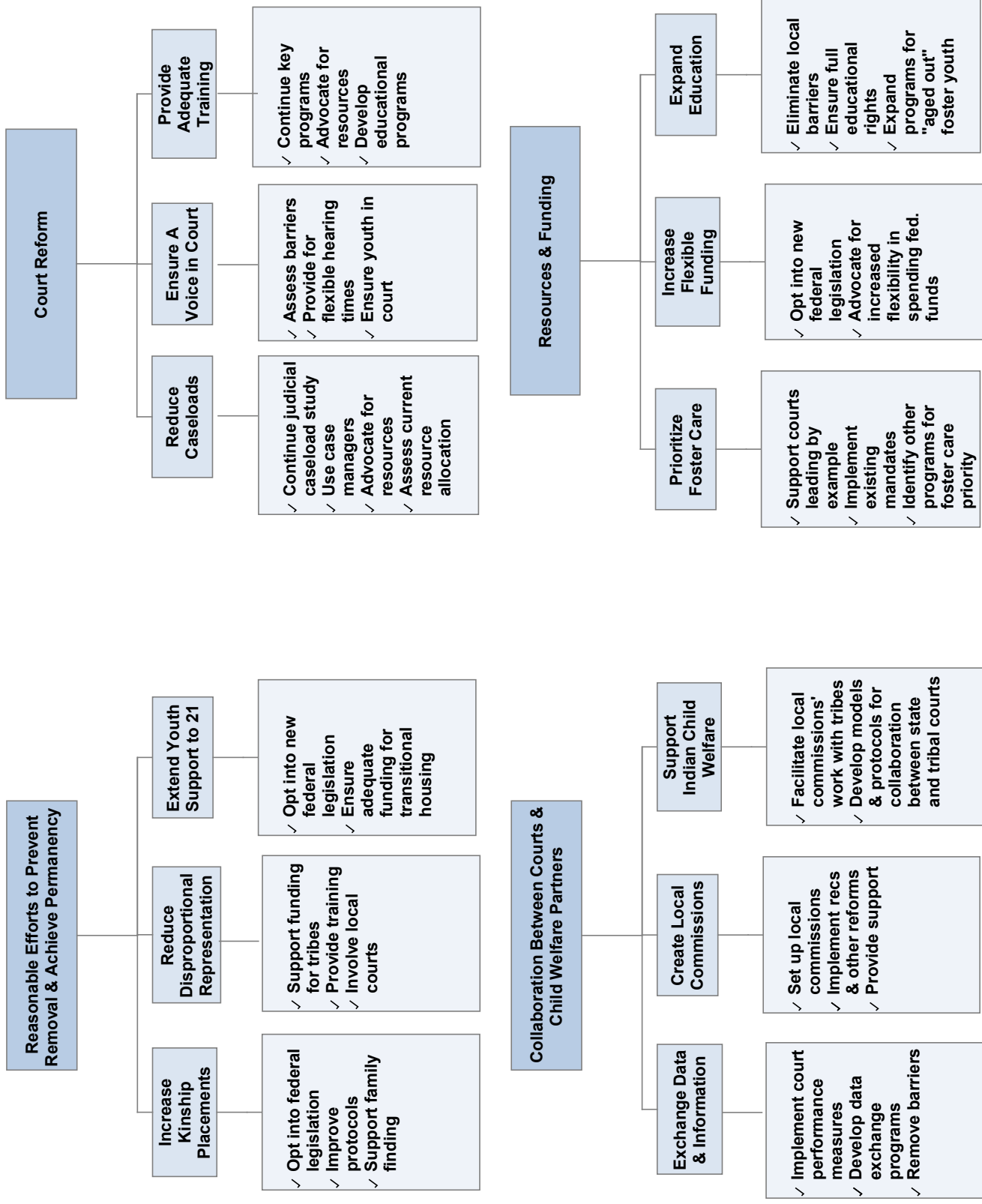
—Hon. Carlos R. Moreno

Data and information exchange systems are years from full capability. Although the initial design of the juvenile dependency/child welfare CCMS module is complete and CDSS has adopted the same design for CWS/Web, it will be years before the courts and their child welfare partners in social services, health, mental health, education, and other fields will be able to fully and effectively exchange critical data about the children in their care. This presents continuing challenges to the courts and agencies serving children and parents in the foster care system: juvenile courts unaware of a family’s involvement with other courts or agencies; court orders meant to benefit families and children in conflict with other court orders or mandated services from other agencies; courts and child welfare agencies unaware of services in the community; and dependency courts unable to gather key data on their ability to meet statutory timelines and other requirements. These challenges will gradually abate as the CCMS and CWS/Web systems become fully functional.

Reduction in numbers of foster children may produce complacency. Although, as noted in the Highlights section, California has seen a 45 percent drop of share of children in the foster care system, mainly by decreasing their time in foster care, it is important that this movement out of care not be seen as a victory negating the need for further work. In fact, the courts, social workers, and attorneys in the system are still staggering under the weight of high caseloads, ensuring that the issues leading to the Blue Ribbon Commission’s recommendations will not be easily resolved by a drop in numbers of children in foster care. As foster care caseloads decrease, one challenge will be to effectively reinvest those savings into ensuring more meaningful hearings and services for the children and families remaining in the system.

The following chapters summarize the commission’s initial action plan for implementation (in blue), document significant progress and challenges in each of its areas of focus, and provide an updated action plan for the coming year.

BLUE RIBBON COMMISSION RECOMMENDATIONS & ACTION PLAN HIGHLIGHTS



Chapter 1: Action Plan Highlights and Priorities, 2009— 2010

Listed below are the commission's four overall recommendations, along with highlights of specific recommendations targeted for early implementation and a summary of action steps recommended by the commission. To read the full set of recommendations and the commission's final report to the Judicial Council, see www.courtinfo.ca.gov/blueribbon. The recommendations are also in the Appendices to this report.

Reasonable Efforts to Prevent Removal and Achieve Permanency

- **Increasing the Number of Placements With Relatives (Kinship Placements)**

Recommendation:

That child welfare agencies engage family members as early as possible in each case and that the Judicial Council work with state and federal leaders to develop greater flexibility in approving placements with relatives when removal from the home is necessary.

Action Steps:

- Key stakeholders, including the Judicial Council, are working to support appropriate legislation to opt into new federal benefits to support kinship placements available in the federal Fostering Connections for Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351) (hereinafter "Fostering Connections to Success Act").
- Local and statewide child welfare agencies will develop and improve internal protocols for finding, engaging, and supporting family relationships.
- Local foster care commissions will support the expansion of family finding in their counties by developing protocols for information sharing among public and private agencies.

- **Reducing the Disproportionate Representation of African-American and American Indians in the Child Welfare System**

Recommendation:

That courts and child welfare agencies reduce the disproportionate number of African-American and American Indian children who are in the child welfare system.

Action Steps:

- The Judicial Council and partnering agencies will support Indian tribes opting into funding and grants available under the Fostering Connections to Success Act.
- The Administrative Office of the Courts will provide training and support to trial courts to assist in eliminating the disproportionate representation of African-American and American Indian children.
- The Judicial Council will support efforts to involve courts in local collaborations to reduce disproportionality.

- **Providing Extended Support for Transitioning Youth**

Recommendation:

That the age for children to receive foster-care assistance be extended from 18 to 21.

Action Steps:

- The Judicial Council is working with the Administrative Office of the Courts, California Department of Social Services, and the Legislature to ensure that California is able to secure the federal funding to extend foster care to age 21, as authorized in the 2008 federal Fostering Connections to Success Act.
- The Judicial Council and partnering agencies are working with state and federal leadership to ensure adequate funding for transitional housing.

Court Reform

- **Reducing the Caseloads of Judicial Officers, Attorneys, and Social Workers**

Recommendation:

That the Judicial Council reduce the high caseloads of judicial officers and attorneys and work with state and county child welfare agencies to reduce the caseloads of social workers.

Action Steps:

- The Judicial Council will assess judicial needs based on caseload data and seek resources to implement recommendations from this study.
 - In conjunction with the trial courts, the Judicial Council will undertake a judicial juvenile court caseload study.
 - The Judicial Council will work with partnering agencies and other state leaders to advocate for resources to implement existing caseload standards for all attorneys who provide representation in juvenile court and to develop caseload standards for social workers.
- **Ensuring a Voice in Court and Meaningful Hearings**

Recommendation:

That the courts ensure that all participants in dependency proceedings, including children and parents, have an opportunity to be present and heard in court. Court-Appointed Special Advocate (CASA) programs should be expanded to make CASA volunteers available in every case.

Action Steps:

- Local foster care commissions and state child welfare stakeholders will identify and assess barriers to parties' attendance at hearings and tailor local strategies to overcome these barriers.
- The Judicial Council has referred a rule of court providing for alternative ways of participation in court, such as telephonic appearances, to the Judicial Council's Rules and Projects Committee.
- The Judicial Council and many local foster care commissions are working to implement the mandates of Assembly Bill 3051, which requires

trial courts to ensure that every child over age 10 has the opportunity to attend hearings in his or her case and to address the court.

- **Ensuring that All Attorneys, Social Workers, and Court-Appointed Special Advocates Are Adequately Trained and Resourced**

Recommendation:

That the Judicial Council advocate for sufficient resources to implement caseload standards and that the Administrative Office of the Courts expand multidisciplinary training and opportunities.

Action Steps:

- The Administrative Office of the Courts will continue its Court-Appointed Counsel Study and DRAFT (Dependency Representation, Administration, and Funding & Training) project to reduce caseloads and provide training for attorneys representing parents and children in juvenile dependency proceedings.

Collaboration Among Courts and Child Welfare Partners

- **Facilitating Data and Information Exchange**

Recommendation:

That the Judicial Council support the courts and all partners in the child welfare system in eliminating barriers to the exchange of essential information and data about the children and families they serve. The Judicial Council will implement court-performance measures to improve foster care outcomes as mandated by state law.

Action Steps:

- Court performance measures are being implemented in courts across the state.
- The Judicial Council will continue to develop and implement the California Case Management System, which will include information-sharing capabilities accessible to partners' data systems.
- Statewide stakeholders, including the Judicial Council, California Department of Social Services, and the trial courts, will work to reduce or remove barriers to information sharing.

- **Establishing Local Foster Care Commissions**

Recommendation:

That the courts and child welfare agencies jointly convene multidisciplinary commissions at the county level to identify and resolve local child-welfare concerns and to help implement the Blue Ribbon Commission's recommendations and related reforms.

Action Steps:

- In December 2008, the Blue Ribbon Commission convened a summit of teams from 50 counties to start the process of establishing local foster care commissions. Those teams returned home with concrete steps to set up local commissions or identify existing committees or workgroups that could be expanded to become local commissions.
- These local foster care commissions will adopt their own action plans to address local concerns and enact the Blue Ribbon Commission's recommendations.

- **Improving Indian Child Welfare**

Recommendation:

That the courts, child welfare agencies, and other partner agencies collaborate with Indian tribes and tribal courts to ensure that Indian children and families get the services for which they are eligible.

Action Steps:

- The local foster care commissions will work with tribes, tribal courts, and tribal service agencies in their jurisdictions to determine the needs of tribal children and families and the resources available to meet their needs.
- Teams, representing both local foster care commissions and statewide agencies and leadership, will work together to develop models and protocols for sharing jurisdiction, data, and services.

Resources and Funding

- **Prioritizing Foster Care**

Recommendation:

That all agencies and the courts make children in foster care and their families a top priority when providing services and when allocating and administering public and private resources.

Action Steps:

- The Judicial Council and trial courts will lead by example by (1) assigning judges (as opposed to subordinate judicial officers) to hear dependency cases; (2) setting 3-year minimum rotations in dependency courts; (3) implementing performance measures and using them to determine resource allocation to juvenile dependency court; (4) implementing the California Case Management System for dependency court; and (5) conducting a judicial juvenile court workload study and setting caseload standards for judges based on that study.
 - Local foster care commissions and partnering agencies will identify any additional programs in which foster youth and families should be given priority for services.
- **Advocating for Flexible Funding for Child-Abuse Prevention and Services**

Recommendation:

That the Judicial Council work with state and federal leaders to allow greater flexibility in the use of funds for child-abuse prevention and to eliminate barriers to coordinating funds for child-abuse prevention and services.

Action Steps:

- The Judicial Council, California Department of Social Services, the Child Welfare Council, and other stakeholders are working with the executive branch and state legislative leadership to opt into appropriate provisions of the Fostering Connections to Success Act that increase the flexibility of federal funding.
- The Judicial Council and other stakeholders will continue to advocate for increased flexibility to use federal funds for preventive services.

- **Expanding Educational Services**

Recommendation:

That all agencies and the courts make access to education and all related services a top priority when working with foster children and youth.

Action Steps:

- Trial courts, local foster care commissions, local education agencies, and other stakeholders will collaborate to assess and eliminate local barriers to ensuring full educational opportunities for foster children.
- The Judicial Council, together with other stakeholders, will advocate with state and federal leaders to strengthen the educational rights of foster children and secure resources for implementation of existing education laws to benefit all foster and former foster children.

Chapter 2: A New Focus on Prevention and Permanency

When, after more than two years, the Blue Ribbon Commission completed its information-gathering and began drafting sweeping recommendations to reform the juvenile dependency and foster care systems in California, it faced gaping systemic holes in need of immediate attention. Some prime areas demanding action were embedded in the commission's first overarching recommendation: the need for reasonable efforts to prevent removal and achieve permanency.

First, commissioners knew that the courts and their child welfare partners were unified in a fundamental belief that all children deserve a safe, stable family in which to grow up and thrive. There is universal acknowledgment that interrupting a child's bond to a parent, even when necessary and temporary, is a destabilizing event. Yet the commission found that while child welfare agencies wanted to offer more services to at-risk families to prevent placement in foster care, funds to support preventive services had not been given priority at the local, state, or federal level. The historical use of federal child welfare funding for prevention or reunification services has been restricted to only about 10 percent. This put dependency court officials and child welfare professionals in the untenable position of not being able to provide key preventive support at the front end to vulnerable children and families.

Second, commissioners learned that despite the best efforts of juvenile dependency judicial officers, when removal from the home was necessary, placement in a foster home did not necessarily improve the situation for children or their families. Foster children were experiencing multiple placements; changes in schools; and separation from their siblings, friends, and other family members. They found that 50 percent of the children were in foster care for two years or more and 17 percent for three years or more.

Third, they found that African-American and American Indian children were disproportionately represented in the child welfare system. They were more likely than other children to be reported for abuse, more likely to be removed, and less likely to be reunified or adopted.

“Two key conditions have shaped the legislative climate in this 2009-10 legislative session: first, the many fiscal challenges; and second, passage of the federal Fostering Connections to Success Act. The federal legislation has resulted in some encouraging activity that we probably would not have seen without it.”

—Curt Child
Director, Administrative
Office of the Courts, Office
of Governmental Affairs

And finally, they discovered that as many as 5,000 youth in California “age out” of the system every year without reunifying with their own families or being placed in another permanent family. They knew from national research that those young people who transition out of the system at age 18 without a permanent home or adequate support are more likely to drop out of school, to have serious mental health needs, to experience homelessness and unemployment, and to end up in the criminal justice system.

The commission showed its concern about these conditions by targeting them for early action. It focused on three recommendations to begin turning things around. First, increasing the number of relative placements; second, reducing the disproportionate representation of African-Americans and American Indian children in foster care; and, third, providing extended support for transitioning youth.

The commission’s action steps for each of the targeted recommendations can be found in Chapter 1 (blue pages). The following is a point-in-time (as of June 30, 2010) implementation progress report for each of these recommendations.

Implementation Progress

Early boost from federal legislation

An early boost for the possibility of progress on these recommendations came in the form of the federal Fostering Connections to Success Act, which was signed into law in October 2008. Hailed as the most significant federal legislation for foster youth in more than a decade, the legislation is directly responsive to 20 of the Blue Ribbon Commission’s recommendations, which were shared with members of Congress prior to the new law’s passage.

The Fostering Connections to Success Act advances specific recommendations in the commission’s initial prevention and permanency action plan by offering:

- Increased supports for relative caregivers (kinship placements);
- Improved outreach and communication with relatives who may be able to assist with care of foster youth;
- More flexible use of federal funds to support child abuse prevention efforts;
- Supports for foster youth until age 21, including housing and other transitional services; and
- Requirements that siblings be placed together.

Some state legislation to implement these provisions has already been passed and chaptered in California, while other legislation is still pending. That legislation will be discussed below.

Celebrating Reunification

With support from the National Project to Improve Representation for Parents Involved in the Child Welfare System,¹ organizations from around the country planned National Reunification Day activities. The project promoted June 19, 2010 as the first National Reunification Day, with a goal of celebrating families and communities coming together, while raising awareness about the importance of family reunification to children in foster care.

In California, Judge Michael Nash, Presiding Judge of the Los Angeles County Juvenile Court; the Los Angeles County Department of Children and Family Services (DCFS); and other child welfare partners planned a reunification celebration week for March 1–7, 2010, which included the following activities:

- The Board of Supervisors recognized seven “reunification heroes” at a breakfast and reception celebrating their accomplishments.
- Each of five DCFS offices hosted a celebration highlighting a program key to reunification (for example, one celebration highlighted the Parents in Partnership Program that provides peer parent mentors to parents new to the child welfare system).
- A community mental health center and a church visitation center held open house receptions.

In the future, each reunified family will receive a certificate to acknowledge their accomplishment. Judge Nash is an enthusiastic proponent of this new focus on reunification. “We need to place greater emphasis on reunification, perhaps through offering incentives, much like those provided for adoption,” he stated.

The Blue Ribbon Commission, at Judge Nash’s urging, decided at their meeting in May 2010 to put renewed focus on reunifying families.

¹ See www.abanet.org/child/parentrepresentation or contact Mimi Laver at (202) 662-1736 or laverm@staff.abanet.org. The project is a collaboration between the American Bar Association Center on Children and the Law, Casey Family Programs, Annie E. Casey Foundation, Child Welfare Fund, and the Steering Committee for the National Parents’ Counsel Organization.

Increasing the number of relative placements

Too often children who have been removed from their homes find themselves shifted from placement to placement, separated from siblings, friends, and schools, in a kind of foster care limbo. Often they can be placed with relatives if the system knows who and where the relatives are. Significant activity, both statewide and locally, has been undertaken to promote and implement the recommendation to increase the number of relative placements through three strategies: engaging family members, advocating changes in law to address funding disparities and developing greater flexibility to approve relative placements; and making extraordinary efforts to preserve and promote sibling connections and co-placement.

Engaging family members

Statewide Efforts

State Legislation—Chaptered

- ***AB 938 (Comm. on Judiciary; Stats. 2009, ch. 261) Relative caregivers and foster parents.***

Requires social workers and probation officers to immediately investigate the identities and location of all grandparents and other adult relatives of a child after the child is detained, and to notify the relatives that the child has been removed from his or her parents, and inform them of the means by which they might participate in the child's care.

State Legislation—Pending

- ***AB 12 (Beall & Bass) California Fostering Connections to Success Act***

Status: As of 6/30/10, Sen. Appropriations Com.

Implements federal foster care reform legislation to provide federally subsidized relative guardianships, and extend foster care jurisdiction to age 21. The bill would also expand the jurisdiction of the juvenile court by allowing it to adjudicate a child placed voluntarily in an approved home of a relative a dependent of the court for not more than 180 days, if prescribed conditions are met.

Judicial Council

- As of April 2010, submitted for public comment proposal creating new rules and forms to implement the mandates and legislative intent of AB 938.

California Department of Social Services

- Implemented the notice requirements of AB 938 that all counties must follow in notifying and engaging relatives; created a reader-friendly letter with FAQ for relatives to encourage them to get involved with the child in foster care.

Child Welfare Council

- Adopted a recommendation for a statewide commitment to increase the number of children in all 58 California counties who have achieved permanency through implementation of Family Finding and Engagement (FFE).

California CASA

- Working on family finding initiatives with local collaborations in a number of counties.

Casey Family Programs/Administrative Office of the Courts

- Piloting a local commission project in Sacramento County to initiate an FFE program and to prioritize foster care at the community level.

California Co-Investment Partnership

- Supports, through its Integration Team, local family engagement efforts, including FFE and Team and Family Group Decision Making.

Local Efforts

A number of counties are engaged in local collaborative family finding initiatives, including the following:

- Several counties have scheduled long-term family finding trainings with Kevin Campbell, an internationally known youth permanency expert and founder of the Center for Family Finding and Youth Connectedness, and a number are developing family finding protocols.
- Some county probation departments are receiving title IV-E training that includes family finding information on identifying a caring adult as a potential caregiver and choosing a permanent plan.
- Local commissions in several counties are working with their local CASA organization on family finding efforts.

California's foster care system has made remarkable advances in the last decade.

Public Policy Institute Report on Foster Care in California Notes Remarkable Advances in Last Decade

In March 2010, the Public Policy Institute of California released its report, *Foster Care in California: Achievements and Challenges*.¹ The report noted that California's foster care system "has made some remarkable advances in the last decade."² Specifically it noted that the state has made great progress in moving children out of foster care. In fact, California has seen a 45 percent drop in share of children in the system, mainly by shortening the time that most children spend in foster care. That decline is "most pronounced among black children, who have long been overrepresented in the child welfare system." In 2009, 2.7 percent of African-American children were in foster care, compared to 5.4 percent in 2000—certainly still too high a percentage but encouraging. The report also noted that more children were remaining in their first out-of-home placement, rather than experiencing multiple placements, and more children are eventually being placed with relatives.³

The institute attributed these reductions, "which far outpaced those across the rest of the country," in part to a "more intense focus by local and state policymakers on the problems of foster care, which in turn led to innovations in child welfare policies and practices."⁴ Thus, the collaborative efforts of the courts and their child welfare partners through the Blue Ribbon Commission, the Child Welfare Council, philanthropic efforts, and the work of the local county foster care commissions are all paying off.

But the report notes the significant challenges that remain:

- Payments to foster families and other out-of-home care providers have not kept up with inflation.
- Despite the reduction in the proportion of black children in the system, they are still substantially overrepresented.
- The number of children who enter foster care more than once during their childhoods has increased.
- And, despite significant reductions, the number of children who age out of the system into an uncertain future, often with little adult guidance, has actually risen since the beginning of the decade.⁵

What this all seems to indicate is that we are having some success at the backend of the foster care process—reducing the length of stay and the number of placement changes, but we still have much to do at the front end—preventing placements when possible and finding permanent placements when removal cannot be avoided. Efforts must also continue toward reducing the length of time in care, particularly for specific populations, including African-American and American Indian children and children with complex needs.

¹ Available at www.ppic.org/content/pubs/report/R_510CDR.pdf.

² *Id.* at 1.

³ *Ibid.*

⁴ *Id.* at 2.

⁵ *Ibid.*

Advocating changes in law to address funding disparities and develop greater flexibility to approve relative placements

Statewide Efforts

State Legislation—Pending

- ***AB 12 (Beall & Bass) California Fostering Connections to Success Act.***

Status: As of 6/30/10, Sen. Appropriations Com.

Opting into provisions of the federal Fostering Connections to Success Act that allow states to waive nonsafety-related licensing standards for relatives on a case-by-case basis. (The federal legislation also requires the Department of Health and Human Services (HHS) to report to Congress on ways to further eliminate licensing barriers so that more children can be placed with relatives in foster care and become eligible for federal support.)

CDSS/Casey Family Programs/Co-Investment Partnership

- Participating in a joint initiative to create and lead the Federal Financing Reform and Waiver Extension Workgroup to advocate for more flexibility in the use of federal funding.

Making extraordinary efforts to preserve and promote sibling connections and co-placement

Statewide Efforts

State Legislation—Pending

- ***AB 743 (Portantino) Foster care: sibling placement.***

Status: As of 6/30/10, Sen. Appropriations Com.

Would require any order placing a dependent child in foster care and ordering reunification services to provide for visitation between the child and any sibling unless the court finds by clear and convincing evidence that the interaction is contrary to the safety or well-being of either child. If siblings have not been placed together, the social worker would be required to explain why those efforts are contrary to the safety or well-being of any sibling. Would also require reasonable efforts to be made to provide for ongoing and frequent sibling interaction; would require placing agency to make a specified notification to the child's attorney and the child's sibling's attorney when a planned change of placement will result in the separation of siblings currently placed together.

There has been a 50 percent drop in African-American children in foster care in California in the last decade, but the share of African-American children in the foster care system in the state is still too high.

Reducing the disproportionate representation of African-American and American Indians in foster care

When the Blue Ribbon Commission began its work, African-American children represented more than 26 percent of the children in foster care, but only 6 percent of the state's child population. The proportion of American Indian children in the foster care system was more than three times their total population in California.

Recognizing that this issue required early and determined action, the commission addressed the problem on multiple fronts, focusing on its recommendations to reduce the disproportionate number of African-American and American Indian children in the child welfare system and to improve the diversity and cultural competence of professionals who serve foster children and their families. In its recent report on foster care in California (see box on page 24), the Public Policy Institute of California noted a 50 percent drop in African-American children in foster care over the last decade, attributing it in part to the collaborative efforts of local and state policymakers, including the Blue Ribbon Commission and the Child Welfare Council.

However, despite active and enthusiastic efforts to reduce disproportionality, this issue will remain a significant challenge in this state for years to come. Budget limitations have severely hampered movement on improving the diversity and cultural competence of child welfare and court professionals; and even with a 50 percent drop in African-American children in foster care, the share of African-American children in foster care in California remains disproportionately high.

Statewide Efforts

California Co-Investment Partnership

- The California Disproportionality Project/Breakthrough Series Collaborative on Disproportionality Initiative involving 13 local county child welfare agencies with the aim of sharing ideas, raising awareness and developing solutions to the problem of disproportionality and disparities for children and families of color in the child welfare system. A study found that a similar national project effectively mobilized child welfare agencies in improvement efforts to reduce the number of children of color in the foster care system. In addition, it helped agencies test and implement strategies to equalize how the system treats these children and their families. Sponsored by the Co-Investment Partnership, the project's principal funders include the Annie E. Casey Foundation, California

Department of Social Services, Casey Family Programs, and the Stuart Foundation.

State Interagency Team Workgroup to Eliminate Disparities

- Participating in the California Disproportionality Project is one of the Workgroup's strategies to decrease racial disproportionality and disparities in outcomes across systems; workgroup members have initiated "courageous conversations" about disproportionality in each of their departments.
- Strengthening collaboration across state agencies is another strategy to address disproportionality.

American Indian Enhancement Team

With active participation from the AOC Tribal Projects Unit, the American Indian Enhancement Team, an effort of the California Disproportionality Project (CDP), provides technical assistance and support for five county teams focusing on improving outcomes for American Indian children and families and eliminating racial disproportionality and disparities in child welfare. The initial phase of the American Indian Enhancement effort will be completed September 30, 2010, and will have:

- Provided technical assistance to counties to assist them with their plans for reducing disproportionality, focusing particularly in helping enhance working relationships among tribes, courts, and county child welfare services;
- Provided technical assistance for the Bay Area Collaborative of American Indian Resources (BACAIR) to further collaborations among probation, social services, and Native agencies; and
- Created tools to form an online accessible toolkit that will assist in addressing disproportionality within the dependency system.

Local Efforts

- Several counties participated in the Breakthrough Series Collaborative on Disproportionality.

Providing extended support for transitioning youth

With more than 10 percent of our youth in foster care "aging out" of the system every year without reunifying with their own families or being placed in other permanent families, this state faces an enormous problem. These young people are more likely to drop out of school, have serious mental health needs, experience homelessness and unemployment, and end up in the criminal

justice system. That is why the Blue Ribbon Commission targeted for early action its recommendation to support or sponsor legislation to extend foster care assistance from age 18 to age 21. As noted at the beginning of this chapter, that recommendation got a tremendous boost when the federal Fostering Connections to Success Act was signed into law in October 2008.

Federal Efforts

Federal Legislation—Chaptered

- ***Patient Protection and Affordable Care Act of 2010 (P.L. No. 111-148)***
Allows the state to extend Medicaid health care to former foster youth through age 26.

Statewide Efforts

State Legislation—Pending

- ***AB 12 (Beall & Bass) California Fostering Connections to Success Act***
Status: As of 6/30/10, Sen. Appropriations Com.
Opting into provisions of the federal Fostering Connections to Success Act extending services for older youth. Helps youth who turn 18 in foster care without permanent families to remain in care to age 21 with continued state and federal support to improve their opportunities for success as they transition to adulthood.

State Legislation—Chaptered

- ***AB 719 (Lowenthal, Bonnie; Stats. 2009, ch. 371), Transitional food stamps for foster youth***
Advanced by the California Department of Social Services (CDSS), the legislation requires CDSS to propose a Transitional Food Stamps for Foster Youth demonstration project, effective July 1, 2010. The demonstration project would make independent foster care adolescents, who are not eligible for CalWORKs or SSI benefits, eligible for food stamps without regard to income or resources.

“The extension of foster care services to age 21 needs to be combined with a stronger move to achieve permanence before age 18, not just moving the cliff to 21.”

—Hon. Michael
Nash

California Department of Social Services

- Submitted, in May 2010, its official request to the U.S. Department of Agriculture for the demonstration Transitional Food Stamps for Foster Youth project provided for in AB 719.
- Worked with the federal Social Security Administration (SSA) to seek a solution to helping disabled foster youth apply for disability (SSI) benefits before transitioning out of foster care at age 18 so that they would have some income after leaving the system. The proposal became law through AB 1331 (Evans) in October 2007, adding section 13757 to the Welfare and Institutions Code. As a result of the CDSS efforts, California became the first state in the nation to obtain federal approval of a new way to treat disabled foster youth in applying for SSI benefits. SSA rolled the process out nationwide in January 2010.

Chapter 3: A New Focus on Court Reform

Because this was California’s first statewide effort to look at the role of the courts in child welfare reform, commissioners were particularly interested in gauging the effectiveness of the courts and their child welfare partners in carrying out their legal responsibility for the safety and well-being of children in foster care—in effect, how they were “parenting” this state’s most vulnerable children.

What the commissioners found was an overstressed and underresourced dependency court characterized by staggering caseloads that often forced judicial officers, attorneys, and social workers to limit the time and attention they could give to each child. Even in those cases that were given a thorough review, statutory timelines were often not being met. Children and their families were suffering from an overburdened system unable to meet their needs.

Children and families appeared at the courthouse and had to wait hours for hearings that often lasted only 10 to 15 minutes—far short of the recommended 30 to 60 minutes—giving them little time with the court or their attorneys. Parents and children consistently reported that they did not understand what happened in court.

The commission set three court reform priorities for urgent action: first, reducing caseloads for judicial officers, attorneys, and social workers; second, ensuring a voice in court and meaningful hearings; and, third, providing adequate training for attorneys, social workers, and CASA volunteers.

The commission’s action steps for each priority can be found in Chapter 1 (blue pages). The following is a report on implementation progress as of June 30, 2010.

Implementation Progress

Current economic and budget challenges have severely hampered progress on court reform recommendations; nevertheless, commissioners have been pleased to see some significant movement in this area.

Reducing caseloads

One of the first serious conditions of which the Blue Ribbon Commission became aware during its three-year review was the staggering caseloads of attorneys and judicial officers in juvenile dependency court. Those caseloads sharply limited the time devoted to each case, so commissioners believed that lowering caseloads was a necessary first step towards implementing their recommendations for more meaningful hearings. Though budget cuts have affected the timing of progress on this recommendation, it has been encouraging to see a reduction in the numbers of children in foster care.¹ As foster care caseloads decrease one challenge will be to effectively reinvest those savings into ensuring more meaningful hearings. There has not been a similar decline in court workload, in part because there has not been a significant drop in entries into the juvenile dependency system.

As foster care caseloads decrease one challenge will be to effectively reinvest those savings into ensuring more meaningful hearings.

Statewide Efforts

Administrative Office of the Courts

- Initiated collaboration between AOC Center for Families, Children & the Courts (CFCC) and Office of Court Research (OCR) to develop juvenile sections of the new AOC Trial Court Workload Study, which estimates both judicial and staffing needs for each of the major case types. The judicial needs study ran from early May to early June 2010 and the consultant is presently analyzing the results in preparation for a preliminary presentation for the working group meeting in late August. The staffing study is tentatively scheduled to begin in October 2010; CFCC, OCR, and court operations staff are developing and refining the data collection instruments to ensure that all relevant staff tasks are captured in the study.

¹ See information on PPIC report, page 24.

- Continued work of the DRAFT (Dependency Representation, Administration, Funding and Training) program that launched after the Court Appointed Counsel study, completed in June 2004, which identified performance and caseload standards for attorneys appointed to represent parents and children in juvenile dependency cases. The identification and implementation of court-appointed counsel caseload standards will help ensure quality attorney service for both children and parents subject to the state’s dependency adjudication process.

Ensuring a voice in court

The Blue Ribbon Commission heard loudly and clearly—from focus groups, public forums and hearing, formal testimony at commission meetings, youth summits, and social worker symposia that participants in juvenile dependency proceedings have an earnest desire to be heard and understood by the judge and to offer their personal perspectives to the court on the issues that could have a profound impact on their future—they want to tell their side of the story. The work of ensuring a voice in court and meaningful participation in court hearings has seen much implementation activity over the past year, both at the statewide and local levels, despite challenging economic conditions. One reason is that many procedural changes can be implemented with few or no new resources.

Statewide Efforts

State Legislation—Pending

- ***AB 12 (Beall & Bass) California Fostering Connections to Success Act***
Status: As of 6/30/10, Sen. Appropriations Com.
 Implements federal foster care reform legislation to expand the availability of federal training dollars, on a phased-in basis, to reach more of those caring for and working with children in the child welfare system, including relative guardians, staff of private child welfare agencies, court personnel, attorneys, guardian ad litem, and CASAs.
- ***SB 962 (Liu) Prisoners: adjudication of parental rights: participation***
Status: As of 6/30/10, Assem. Appropriations Com.
 Would provide that an incarcerated parent who has either waived the right to be physically present at the proceeding or who has not been ordered by the court to be present at the proceeding may be given the opportunity, at the discretion of the court, to participate in the proceeding by videoconference

or teleconference, if that technology is available, as long as the parent's participation otherwise complies with the law. This bill would provide that a prisoner may lose job placement opportunities, be removed from a court-ordered course, or be denied earned privileges only if the prisoner's participation in the proceedings causes the prisoner to be absent from the custodial institution for more than 10 days. The bill would permit the Department of Corrections and Rehabilitation to establish a pilot program to facilitate the participation of incarcerated parents in dependency court hearings, provided that the project is funded by private funds, as specified.

Judicial Council

- Amended rule 5.534(p) of the California Rules of Court to bring it into compliance with Welfare and Institutions Code section 349, which includes revised provisions regarding a child's presence at and participation in a juvenile court hearing if the child is the subject of that hearing. (Assem. Bill 3051 [Jones]; Stats. 2008, ch. 166.) Section 349(c) states that if the child is present at the hearing, the court must allow the child to address the court and participate in the hearing if the child desires to do so.

Administrative Office of the Courts

- Created Juvenile Delinquency Court Orientation video and posted it on the California Courts Self-Help Center (June 2010) to help youth, including youth in the foster care system, and their parents understand the delinquency court process. The video is also available on the California Dependency Online Guide website, and courts and justice partners may obtain copies of the DVD by mail.
- Developing Juvenile Dependency Court Orientation video. Like the delinquency video, it will assist parents and children in understanding the purpose of the juvenile court and their role in the process.
- Continuing support and provision of technical assistance to CASA programs with a goal of making CASA volunteers available for all foster children in the dependency system.

San Luis Obispo Superior Court Judge Garrett Gives Up Chambers for Children's Waiting Room

When the San Luis Obispo County local foster care commission decided the court needed a children's waiting room where attorneys, judges, and CASA advocates could interview young children in a non-intimidating environment, it found a shortage of appropriate space in the court building. That is, until Judge Ginger Garrett offered up her personal chambers for the project. According to Judge Garrett, she "wanted to create a child-friendly space to reduce stress for children who come to court." The room has been painted in a calming underwater theme by a local muralist and filled with educational toys and books. The waiting room, the local commission's first project, opened in May 2009.

The local commission chose to focus on two key Blue Ribbon Commission recommendations for its initial work: meaningful participation in court and exchanging data. Other projects to increase meaningful participation in court, in addition to the children's waiting room (which garnered front page coverage in the local paper), include an informational parent orientation DVD.

Local Efforts

Many of the local foster care commissions are working on projects to ensure a voice in court and more meaningful hearings. Some local commissions are developing orientation videos or packets for parents, while others are setting up voluntary parent mentors. Several counties have developed children's waiting rooms.

Providing adequate training

Making sure that parents and children can attend hearings is only the first step toward meaningful hearings. Often participants at dependency court hearings are mystified by the process—they commonly feel frustrated, overwhelmed, or rushed as they attempt to navigate the system, to understand their rights, and to participate in a meaningful way in court. This recommendation, too, has seen significant implementation efforts.

Administrative Office of the Courts

- Conducting ongoing training for judicial officers and court participants on creating courtroom environments that promote communication with, and meaningful participation of, all parties, including children, at local and regional sites.
- Ran juvenile court administration broadcasts targeted at judicial officers on this issue in April 2010.
- Expanded Juvenile Court Assistance Team (JCAT) trainings in many counties.
- Offered many training opportunities at Beyond the Bench conference in June 2010.
- Created the Tribal Projects Unit to assist the state judicial branch with the development of policies, positions, and programs to ensure the highest quality of justice and service for California's Native American communities, including curriculum development and training for state court judges and making available existing AOC training to tribal court judges and personnel.
- Continued building of online training resources on the California Dependency Online Guide website.

Chapter 4: A New Focus on Collaboration

The courts' partners in California's foster care system span a wide range of agencies and entities, including child welfare, education, alcohol and drug treatment, mental health, public health, Indian tribes, and tribal agencies. All share with the courts responsibility for the safety and well-being of the state's children and youth in foster care. Families are often involved with more than one agency at a time and might have cases in both dependency court and family court or dependency court and delinquency court. These state, local, and tribal governments and agencies have independent and often conflicting policies and regulations that inhibit communication and the sharing of critical data and information.

The Blue Ribbon Commission learned that this problem sometimes leads to judges and attorneys lacking full information about a child's health, mental health, education, language, or citizenship, with the result that the state or tribal courts have to make decisions without a complete or accurate picture of the needs of the child and his or her family. Lack of information can also cause situations where court-ordered services meant to benefit families and children conflict with other court orders or mandated services from other agencies. Moreover, courts and child welfare agencies do not always know what services exist in the community and often the availability of essential services is limited.

There also has been a historical lack of trust, coordination, and collaboration between Indian tribes or tribal courts and the state trial courts and other child welfare partners. That condition has been harmful to American Indian children and their families.

A further complication is that courts have been unable to gather key data on their ability to meet statutory timelines for hearings and requirements regarding safety, permanency, and well-being. Uniform statewide data has been limited to the number of filings and dispositions. It was clear to the commission that the courts needed more advanced data systems and court performance measures to track children's progress, measure compliance with statutes, and identify sources of delay and other areas of needed reform.

Recognizing these impediments helped the commission focus its action plan on collaboration between courts and their child welfare partners. The commission chose three recommendations for early

implementation efforts: first, facilitating data and information exchange; second, establishing local foster care commissions; and, third, improving Indian child welfare.

The proposed action steps for these three priorities can be found in Chapter 1 (blue pages). The following represents implementation progress on those priorities as of June 30, 2010.

One of the most challenging impediments to reforming the juvenile dependency and foster care systems is the difficulty of exchanging data and information among courts and their partner agencies.

Implementation Progress

Facilitating data and information exchange

The Blue Ribbon Commission recognized early in the process that one of the most challenging impediments to reforming the juvenile dependency and foster care systems was the difficulty of exchanging data and information among courts and their partner agencies. The difficulty results from a variety of factors, including confidentiality laws, and in many instances the way in which they are interpreted and implemented; automated case management systems that are unable to communicate with each other; and a lack of communication and collaboration among agencies and between agencies and the courts. This area, too, has seen some progress despite serious economic deterrents, but it will be years before the courts and their child welfare partners in social services, health, mental health, education, and other fields will be able to fully and effectively exchange critical data about the children in their care.

Statewide Efforts

Judicial Council

- Continuing efforts to finish developing and implement the California Case Management System (CCMS) and other data exchange protocols.

Administrative Office of the Courts

- Collaborating with California Department of Social Services (CDSS) and Center for Social Services Research (CSSR) at University of California, Berkeley: Pending completion of CCMS—while the courts continue to rely on the Child Welfare Services/Case Management System (CWS/CMS) child welfare data—providing data reports with frequently requested statistics to meet the data needs of all local courts.
- Collaborated with CDSS and CSSR to develop a data tool to provide courts with county-specific aggregate statistics on child welfare (using publicly available data from the CSSR archive) from their foster care and family maintenance

caseload. The tool will be accessible to courts along with training on its use.

- Drafted briefs on the challenge and promise of confidentiality law and policy in the areas of education, health care, substance abuse, and mental health.
- Hosted focus groups of county counsel from across the state to review the confidentiality briefs and to discuss issues of confidentiality and information sharing in dependency cases. The AOC is planning to conduct expanded focus groups including state and county agency staff regarding confidentiality and information sharing. The goal is to find effective strategies to increase collaboration among stakeholders, while still preserving and protecting the confidentiality that is so important for children in the foster care system.
- Through its AOC Judge-in-Residence, Leonard Edwards, providing training across the state on Judicial Ethics in data exchange and information sharing—issues that often are a barrier for local efforts.

California Department of Social Services

- Conducting CWS/Web procurement, which will lead to implementation of a web services based technical architecture for CWS/CMS that meets county and state business requirements, including data management and reporting solutions consistent with federal Statewide Automated Child Welfare Information System (SACWIS) requirements. This system is meant to enhance the safety, well-being and permanent placement of at-risk children by improving the ability of CWS staff to provide services in an effective and efficient manner.

Child Welfare Council

- Created the Data Linkage and Information Sharing Committee, chaired by John Wagner, Director, California Department of Social Services, which recommended and has worked on making the CWS/Web statewide automated child welfare information systems (SACWIS) procurement as integrated with other child-serving systems as possible, building on the Blue Ribbon Commission's recommendation for CCMS.
- Adopted data and information sharing recommendations in March 2010, including a policy statement on data sharing. (See recommendations:
www.chhs.ca.gov/initiatives/CAChildWelfareCouncil/Pages/CommitteeDraftRecommendations.aspx)

Local Efforts

Some counties have informal protocols or more formal memoranda of understanding to allow data sharing for the benefit of children in the foster care system. For example, in San Diego County, the Office of Education spearheaded the collaboration of nine agencies and the juvenile court to set up a system to share foster youth's education and health records. An interagency agreement permits participant agencies to access foster youth information on a web-based secure database, allowing judicial officers to access the children's education records from their desks. Collaborative partners in this endeavor include health and human services, child welfare services, the juvenile court, probation, CASA, the public defender, the alternate public defender, education, and the county school districts.

Work in this area is still in the fledgling stages in most counties, but there does seem to be interest in tearing down administrative information sharing barriers to better serve children and families in the child welfare system, while still providing critical protection for the confidentiality rights of each child and family.

“Leadership is more meaningful than money in forming these local collaborations.”

—Hon. Gary T. Ichikawa
Presiding Juvenile Court Judge, Solano County

Establishing local foster care commissions

The Blue Ribbon Commission knows that change for children and families in the foster care system will take place only if changes occur at the county level and in the local juvenile courts.

Establishing local multidisciplinary commissions to identify and address local systemic concerns, address the recommendations of the Blue Ribbon Commission, and build the capacity to provide a continuum of services thus was the commission's lynchpin recommendation.

The Blue Ribbon Commission's vision of local commissions was that they would provide leadership on foster care issues in their communities and also serve as forums for addressing systemic barriers to improving the lives of foster children and for establishing communication protocols among individuals, agencies, and courts. The work in this area over the last year and a half has been both gratifying and deeply encouraging.

Statewide Efforts

Administrative Office of the Courts

- Hosted the 2008 summit for local county teams, where teams from 50 counties began planning local collaborations or

expanding those already in existence and started to set foster care priorities based on local needs.

- Hosted the 2010 summit for both local county juvenile and family court teams to continue foster care work plans initiated at the 2008 Summit and to collaborate on crossover child safety issues.
- Providing ongoing technical assistance and training to local collaborations through assigned Juvenile Court Assistance Team liaisons assigned to each county.
- Providing ongoing support through publication of the *Foster Care Reform Update*, an online bi-monthly briefing for statewide and local collaborations featuring news, resources, and other information with a foster care focus.
- Launched a local commission website in June 2010 to provide support to local collaborations by providing them with an online location to share information with their members, as well as a means to collaborate and share information with local collaborations in other counties. The website is free and available to all local commission members.

“California’s juvenile court judges have taken the Blue Ribbon Commission recommendations to heart—they have truly taken the lead in improving outcomes for California’s abused and neglected children.”

—Hon. Leonard P. Edwards
Retired Superior Court Judge, Santa Clara County; Member, California Blue Ribbon Commission on Children in Foster Care

Child Welfare Council

- Providing ongoing statewide support for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems and for prioritizing foster care in the allocation and administration of resources.

Local Efforts

As of the 2010 summit, close to 50 active local collaborations were working to implement the Blue Ribbon Commission’s recommendations at the county level. Some have been working collaboratively for many years while others are new to county-level collaboration. All have plans for meeting locally on a regular basis and have made it a priority to focus on their community foster care needs as they work on implementing the Blue Ribbon Commission recommendations.

Improving Indian child welfare

As discussed in the section on disproportionality, a significant disparity exists between the percentage of American Indian children in foster care compared to the percentage of American Indians in the general California population. There has also been an historical chasm in terms of resources, policies, trust, and communication between tribes or tribal courts and the state trial courts. And, in many parts of the state, there is distrust between

tribes and child welfare agencies and state trial courts—often because of a lack of understanding or mutual respect for each other’s cultures and institutions. This distrust, together with a lack of resources and coordination, can cause suffering for American Indian children and their families.

“We have much to learn from tribal traditions.”

—Hon. Juan Ulloa
Presiding Juvenile
Court Judge, Imperial
County

Passage of the federal Fostering Connections to Success Act took a step in the right direction to help balance the resource equities: the act offered Indian tribes, for the first time, direct access to title IV-E funds that provide federal assistance through the federal foster care and adoption assistance programs; and the act required the U.S. Department of Health and Human Services to provide technical assistance and implementation services to help tribes set up child welfare services that qualify for title IV-E funding. Those same Congressional initiatives advance the Blue Ribbon Commission’s recommendations in this area. This support, together with a commitment by the Blue Ribbon Commission and other statewide and local partners to improve communication and collaboration between tribes or tribal courts and state trial courts, has resulted in significant activity toward making the commission’s recommendations a reality.

Statewide Efforts

State Legislation—Chaptered

- ***AB 770 (Torres; Stats. 2009, ch. 124), Indian tribes: foster care and adoption programs***
Makes it the policy of the state to maximize the opportunities for Indian tribes to operate foster care programs for Indian children pursuant to the federal Fostering Connections to Success Act. It requires the California Department of Social Services to negotiate in good faith with the Indian tribe, organization, or consortium in the state that requests development of an agreement with the state to administer all or part of the programs under specified provisions of federal law relating to foster care and adoption assistance, on behalf of the Indian children who are under the authority of the tribe, organization, or consortium.
- ***AB 1325 (Cook & Beall; Stats. 2009, ch. 287), Tribal customary adoption***
Requires the juvenile court and social workers to consider and recommend tribal customary adoption, as defined, as an additional permanent placement option, without termination of parental rights, for a dependent child. It provides that a tribal

customary adoption order would have the same force and effect as an order of adoption, and requires the juvenile court and social workers to consider and recommend tribal customary adoption, as defined, as an additional permanent placement option, without termination of parental rights, for a dependent child. The bill provides that a tribal customary adoption order would have the same force and effect as an order of adoption. The bill revises existing federal law, the Indian Child Welfare Act, and state law governing the placement of children who are or who may be Indian children, as specified.

Judicial Council

- Established, by order of Chief Justice Ronald M. George, the California Tribal Court/State Court Coalition, the first organization of its kind in the state, to work on areas of mutual concern, and appointed as co-chairs Justice Richard D. Huffman, Associate Justice of the Court of Appeal, Fourth Appellate District, Division One, and Judge Richard Blake, Chief Judge of the Hoopa, Smith River Rancheria, and Redding Rancheria Tribal Courts. Both Justice Huffman and Judge Blake are members of the Blue Ribbon Commission. The group is now called the California Tribal Court/State Court Forum.

AOC Tribal Projects Unit

- Provides intensive training and technical assistance throughout the state on all aspects of ICWA through the ongoing AOC ICWA Initiative (in partnership with CDSS);
- Conducts community outreach to California's American Indian citizens who reside on reservations or rancherias and in urban communities to provide information about the judicial branch—the state courts and court-connected services;
- Collaborates with tribes in California and California's American Indian communities, organizations, and service providers to gather information about the justice-related needs of California's American Indian citizens;
- Provides education and technical assistance to state courts and court-connected services on Public Law 280, Indian law issues relating to domestic violence, dating violence, sexual assault and stalking, the Indian Child Welfare Act, and indigenous justice systems;
- Acts as a liaison between the state and tribal courts to build professional relationships and to improve access by tribal courts to education, technical assistance, and other resources;

- Serves on the American Indian Enhancement Team, providing support to five counties as they collaborate to improve outcomes for American Indian children and families; and
- Maintains a clearinghouse of AOC and other resources to assist state courts in handling child welfare and other cases involving Native Americans (for example, a directory of Native American family resources in California; information on California tribal courts; and resources relating to compliance with the Indian Child Welfare Act (ICWA) in juvenile, family, and probate cases) and to support tribal justice development (a listing of tribal justice grants and making available educational and other resources available to state courts).

Local Efforts

At the county level, a number of local foster care commissions include tribal members and some are working collaboratively with the tribes or tribal courts to set up protocols on handling child welfare cases.

Chapter 5: A New Focus on Resources and Funding

California's financial support for children and families in the child welfare system, like that of most states, is built on a patchwork of funding streams, each with its own rules and restrictions. In addition to state and county funding, child welfare dollars come from at least a half-dozen federal sources, some of which require matching funds from state, county, and local agencies. Courts, social service agencies, and other providers must struggle to determine the funding sources for crucial services, resulting in delayed services for children and families in crisis. Those delays are compounded when a child is moved to a new county or state. As noted by the Pew Commission on Children in Foster Care in 2004, when it issued nationally focused recommendations to improve outcomes for children in foster care, "Simply put, current federal funding mechanisms for child welfare encourage an over-reliance on foster care at the expense of other services to keep families safely together and to move children swiftly and safely from foster care to permanent families, whether their birth families or a new adoptive family or legal guardian."

The Blue Ribbon Commission found that even when services were available, children and families in the child welfare system were not always given priority access to them. For example, it discovered that no resources or funding supports were available to help foster children access certain educational and transition-to-independence services that they were entitled to receive. This failure to prioritize foster children and their families in the delivery of crucial services deprives them of the comprehensive and concentrated services that are critical to family reunification and permanency.

Faced with this demanding challenge, commissioners took steps to focus on prioritizing foster care and increasing the flexibility of funding in their early implementation efforts. Specifically, they chose the following recommendations for early action: first, prioritizing children and families in foster care; second, advocating for flexible funding for child abuse prevention and services; and, third, expanding educational services.

The commission's proposed action steps for each of the targeted recommendations are listed in Chapter 1 (blue pages). The following documents progress on the targeted recommendations as of June 30, 2010.

Foster children and youth in this state must be able to count on the courts, child welfare agencies, and other partners in child welfare to care for them as thoughtfully as they would be cared for in any loving family.

Implementation Progress

Prioritizing foster care

During its work of developing recommendations to reform this state's juvenile dependency court and child welfare systems, the Blue Ribbon Commission embraced as one of its most compelling values the need to give children and youth whose lives have been shaped by California's foster system a strong, powerful voice in reshaping the system and determining their futures. The commission believed, while setting its priorities, that foster children and youth in this state must be able to count on the courts, child welfare agencies, and other partners in child welfare to care for them as thoughtfully as they would be cared for in any loving family. The commission was cognizant of the fact that, when a child is removed from his or her home, the courts and their child welfare partners are the responsible "parents" for that child. Living up to that responsibility required early and concerted action. The commission looked to Congress, the state Legislature, and state and local agencies, including agencies and organizations that provide health, mental health, education, substance abuse, domestic violence, housing, employment, and child care services, to prioritize the delivery and availability of services to children and families in the child welfare system. And it expected the Judicial Council to implement performance measures and use them to determine resource allocation to the juvenile dependency court.

Federal Efforts

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

- Issued a 2010 Request for Proposals for Family Drug Court Grants: \$500,000 per year for up to three years for new programs, and \$350,000 per year for existing programs.

Statewide Efforts

Judicial Council

- Adopted Cal. Rules of Court, rule 5.505 (Juvenile Dependency Court Performance Measures), effective January 1, 2009, and approved a companion implementation guide.

Administrative Office of the Courts

- Analyzing pilot data from courts to test and refine the performance measures; disseminating preliminary data.
- Collaborating with the Child Welfare Council and Casey Family Programs to develop data and procedures to facilitate

inter-departmental prioritization of child welfare children and their families.

AOC Collaborative Courts Project

- Collaborating with CDSS and Department of Alcohol and Drug Programs on a project with the National Center on Substance Abuse and Child Welfare to identify Dependency Drug Courts (DDCs) statewide as well as current and potential caseloads, funding, and outcomes.
- Visited most DDCs in California and developed an instrument to capture data related to the project's focus.
- Will be providing technical assistance and other follow-up activities to increase caseloads, document results, and identify funding.
- Spearheading a project funded by the State Justice Institute focused on DDC outcome performance measures; creating a mechanism to track DDC outcomes statewide.
- Beginning a project aimed at tracking mentally ill court users in dependency to determine effective practices.
- Engaged in efforts to link drug and mental health courts with family court and child support proceedings to develop effective methods of supervision and compliance with court orders that address underlying problems of substance abuse or mental health.
- Supporting efforts in the courts to establish family preservation courts that are similar to DDCs, but that focus on cases that are in family court or for which a dependency filing has not occurred.

Local Efforts

Many of the local commissions are working on prioritizing foster care in the allocation of resources, including in some instances development of dependency drug courts. Others are identifying services, determining gaps, and similar efforts. There is widespread determination among the local collaborations to find the resources necessary to give families in crisis a fighting chance.

Advocating for flexible funding for child abuse prevention and services

The Blue Ribbon Commission believed that bringing some sense to the patchwork of child welfare funding streams would require the Judicial Council to work with other branches of federal, state, and local governments to identify barriers to funding and develop solutions. It wanted the Judicial Council to urge Congress to

“Ultimately, all children should enjoy the security and comfort of a safe, nurturing and permanent family. Now is the time for comprehensive federal finance reform that supports vulnerable children in achieving this goal.”

—Casey Family
Programs
*Ensuring, Nurturing and
Permanent Families for
Children: The Need for
Federal Finance Reform;*
May 2010

change any federal law that prevented federal funds from being coordinated among several agencies to support specific services. The commission knew that flexible funding should be used to address the needs of children and families in a timely manner that recognizes the child’s developmental needs and relationship with his or her parents, guardian, and extended family. The commission supports key financial recommendations of the Pew Commission on Children in Foster Care, which advocated for the flexibility to put funding into prevention at the front end and encouraged innovative funding strategies at the federal, state, and local levels of government. This area, too, received a boost from passage of the federal Fostering Connections to Success Act.

Statewide Efforts

State Legislation—Chaptered

- ***AB 154 (Evans; Stats. 2009, ch. 222), Adoption assistance: federal law***
Conforms state statutes with federal Fostering Connections to Success Act provisions on adoption assistance and directs resulting savings from changes in eligibility for adoption assistance to specified services.
- ***AB 665 (Torrico; Stats. 2009, ch. 250), State adoption services: investment***
Requires state to reinvest adoption incentive payments received through the federal Fostering Connections to Success Act into the child welfare system to provide legal permanency outcomes for older children, including, but not limited to, adoption, guardianship, and reunification of children whose reunification services were previously terminated.

State Legislation—Pending

- ***AB 12 (Beall & Bass) California Fostering Connections to Success Act***
Status: As of 6/30/10, Sen. Appropriations Com.
Would implement federal foster care reform legislation subsidizing guardianship payments to relatives who provide permanent homes for children when they cannot be returned home; and provide direct access to federal support for Indian tribes.

Judicial Council

- Initiating coordination efforts with Casey Family Programs trustees on federal advocacy in this area.

California Department of Social Services

- Working with National Association of Public Child Welfare Administrators (NAPCWA) on a proposal that would address several of the recommendations advocated by the Pew Commission in 2004.
- Participating in title IV-E waiver project with Alameda and Los Angeles Counties since 2007.

Child Welfare Collaborations

- Identifying barriers to funding for services, developing solutions, and, as appropriate, urging Congress to change any federal law that prevents federal funds from being coordinated among several agencies to support specific services, including concerted efforts to expand and reauthorize title IV-E waivers. Participants include the Child Welfare Council, Judicial Council, Blue Ribbon Commission, Co-Investment Partnership, State Interagency Team, and others.

Expanding educational services

Because too many of our children who “age out” of foster care drop out of school, struggle with serious mental health needs, experience homelessness and unemployment, and end up in the criminal justice system, the Blue Ribbon Commission made it an early action priority to focus on access to education for California’s foster children and youth. This area, too, benefited from the federal Fostering Connections to Success Act. Significant implementation activity occurred in this area over the last year.

Federal Efforts

- ***Federal Fostering Connections to Success Act (Passed 10/08): Educational stability.***
Helps children and youth in foster care, guardianship and adoption achieve their educational goals by requiring that states ensure that they attend school and, when placed in foster care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school; also provides increased federal support to assist with school-related transportation costs.

- ***Federal Fostering Success in Education (S 2801-Franken)-Pending***
Further defines the responsibilities of education agencies to support the educational achievement of children in foster care.

Statewide Efforts

State Legislation—Chaptered

“It is important to provide youth with the right tools when they transition out of foster care . . . by improving their access to education and providing them with resources to be successful as independent adults.”

—Hon. Arnold Schwarzenegger
Governor of California

- ***AB 81 (Strickland, Audra; Stats. 2009, ch. 76), Interscholastic athletics: pupils in foster care***
Requires that a foster child who changes residences pursuant to a court order or decision of a child welfare worker be immediately deemed to meet all residency requirements for participation in interscholastic sports or other extracurricular activities.
- ***AB 167 (Adams; Stats. 2009, ch. 223), High school graduation: local requirements: foster children***
Requires a school district to exempt a pupil in foster care from coursework adopted by the local governing board of the district that is in addition to statewide coursework requirements if the pupil, while he or she is in 11th or 12th grade, transfers from another school district or between high schools within the district, unless the district makes a finding that the pupil is reasonably able to complete the additional requirements in time to graduate from high school while he or she remains eligible for foster care benefits.
- ***AB 1393 (Skinner; Stats. 2009, ch. 391), Foster youth***
Requests or requires community college, state university, and University of California campuses to give priority for housing to current and former foster youth. The bill also requests or requires campuses that maintain student housing facilities open for occupation during school breaks, or on a year-round basis, to give first priority to current and former foster youth for residence in the housing facilities that are open for uninterrupted year-round occupation, and for housing that is open for occupation during the most days in the calendar year.
- Attempt to expand Foster Youth Services to youth in kinship and guardianship placements (***AB 1259***) failed because of budget constraints.

Foster Youth Education Task Force

- Working with 57 counties' Foster Youth Services and numerous other organizations focused on local and statewide practice and policy improvements that support improved educational outcomes, increased collaboration, and accountability.

California Department of Education, Foster Youth Services (FYS)

- Expanded to 57 County Offices of Education serving more than 40,000 students.

Child Welfare Council

- Supporting the education of foster youth through its Child Development and Successful Youth Transitions committee, which is developing a strategy to provide technical assistance to school districts in awarding partial credits.

California Department of Education

- In process of developing a “categorical program monitoring (CPM)” tool to ensure successful educational outcomes for California’s foster youth, but project has been slightly delayed because of current budget constraints.

California State University System

- On March 16, 2010, the CSU Board of Trustees unanimously supported the Title 5 revision in the Education Code granting housing priority to current and former foster youth during the academic year, as well as during critical transitional periods such as school breaks; and establishing reasonable systems for determining priority housing when implementing the Assembly Bill 1393 (Skinner).

California College Pathways

- Working to increase the number of foster youth in California who pursue higher education and help them achieve a positive academic outcome by expanding access to campus support programs, such as the Guardian Scholars Program, the Renaissance Scholars Program and other successful approaches to supporting former foster youth on campus. California College Pathways is a partnership of the California State University Office of the Chancellor, the California Community College System Office and the John Burton Foundation. It is funded by the Stuart Foundation and the Walter S. Johnson Foundation.

Campus Support Programs and Services for Foster Youth

- Providing support services (e.g., financial assistance, housing, academic advising) for former foster youth on 21 CSU, 9 UC, and 110 community college campuses. Programs supporting foster youth in higher education are called by various names including Foster Youth Success Initiative (FYSI), Guardian Scholars, Renaissance Scholars, CME (Connect Motivate and Educate) Society, Resilient Scholars, Court Scholars, ACE Scholars Services and EOP/EOPS (Extended Opportunity Programs and Services).
- Currently 51 comprehensive support programs at UC, CSU and community colleges are serving students from foster care.

Local Efforts

Foster Youth Services Programs

Representatives from FYS programs have become key members of local foster care commissions in a number of counties that have a strong focus on education. These local collaborations have created an elevated level of awareness about the Pre-K– higher education pipeline.

Foster Youth to College Days Aging Out of Foster Care . . . Into College

Almost nine years ago, AOC Judge-in Residence, Leonard Edwards (retired Presiding Juvenile Court Judge from Santa Clara County), organized a luncheon for foster youth in Santa Clara County who were about to age out of the child welfare system. Funded by Philanthropic Ventures Foundation and supported by court personnel, attorneys, child advocates, and social workers, the luncheon featured foster youth who were in college and people who could inform them about educational opportunities. The luncheon was a success and has been held every year since then. Five years ago San Jose State University agreed to host the luncheon on its campus, then embraced the idea of helping foster youth move to higher education. The university created CME (Connect/Motivate/Educate), a program to support foster youth interested in college. Bringing together all segments of the university, San Jose State has been able to help foster youth apply for admission, find on-campus housing, assist with financial aid, and even provide mentors. The luncheon continues, now with Judge Katherine Lucero leading the juvenile court efforts to ensure better outcomes for our foster youth. Ideas for expansion are being considered so that community and junior colleges can be a part of the program.

That was only a beginning. Judges around the state have taken the initiative to improve outcomes for foster youth aging out of the child welfare system.

- In Siskiyou County, Judge Bill Davis has held two Foster Youth to College Days and a third is scheduled for this fall.
- Judge Joyce Hinrichs held a Foster Youth Higher Education event in 2008 and recently held a second event on June 29, 2009, with the presidents of Humboldt State and College of the Redwoods both present.
- Commissioner Charlotte Wittig brought the community together in Tulare County and held Access to Higher Education days each of the last two years, with another planned for this fall featuring Dr. David Arredondo as a speaker.
- Judge Jane Cardoza visited the Tulare County event two years ago and then went back to her home in Fresno and brought the community together to create an Access to Higher Education event for foster youth in Fresno County. This year's event attracted more than 200 foster youth.
- Judge Tamara Mosbarger convened her community and Butte Community College to hold a foster youth to college day in Butte County last year and this October there were more than 200 foster youth in attendance.
- Judge Marsha Slough convened her community in San Bernardino for a College Fair in August. Representatives from the University of Redlands, UCLA, UC Merced, UC Riverside, San Bernardino Chaffey College, Cal Poly, and local colleges attended, as did more than 60 foster youth.
- The Orange County local blue ribbon commission, with Judge Carolyn Kirkwood at the helm, sponsored a College Fair for Foster Youth at the end of September at Orange Coast College. It attracted 111 youth, 61 caregivers, and over 90 volunteers.

These events demonstrate that communities and institutions of higher learning are ready to work with the juvenile court to improve educational outcomes for foster youth. Juvenile court judges have shown once again that they can convene their communities on behalf of our most vulnerable young people.

Chapter 6: Other Efforts Advancing Recommendations

In addition to the recommendations targeted by the Blue Ribbon Commission for early action, progress occurred on the implementation of other recommendations.

The following efforts are notable:

Statewide Efforts Advancing Prevention and Permanency

State Legislation—Chaptered

- ***AB 295 (Ammiano; Stats. 2009, ch. 427), Children: adoption services***
Extending to June 30, 2010, a four-county pilot project providing funding for preadoption and postadoption services to ensure successful adoption of a targeted population, children who have been in foster care for 18 months or more.
- ***SB 597 (Liu; Stats. 2009, ch. 339), Child welfare services, foster care services, and adoption assistance***
Includes provisions for licensed foster family agencies; requires court, when considering termination of parental rights, to consider barriers to a parent's ability to remain in contact with the child as a result of the parent's incarceration or institutionalization; requires CDSS to develop a plan for the ongoing oversight and coordination of health care for a child in foster care; requires additional information in a transitioning foster child's case plan that will help the child prepare for the transition from foster care to independent living.

State Legislation—Pending

- ***AB 1758 (Ammiano), County wraparound services program***
Status: As of 6/30/10, Sen. Appropriations Com.
Would remove the designation of this program as a pilot project and make conforming changes. Under existing law, the State Department of Social Services administers a pilot project that authorizes a county to develop and implement a plan for providing wraparound services designed to enable children who would otherwise be placed in a group home setting to remain in the least restrictive, most family-like setting possible.

The pilot project also imposes specified evaluation and reporting requirements for participating counties and training requirements for their staff.

- ***AB 2342 (Evans), Foster youth: outreach programs***
Status: As of 6/30/10, Sen. Appropriations Com.
Would require CDSS to develop a resource guide for foster youth that outlines available statewide programs and services and their eligibility standards, including, but not limited to, programs and services associated with education, housing, mental health services, independent living programs, and career and job opportunities. The bill would require the department to make the resource guide available on its website as well as in a printed format.
- ***SB 654 (Leno) Independent Living Program***
Status: As of 6/30/10, Assem. Appropriations Com.
Would require services available under the Independent Living Program to be provided to former dependent children of the juvenile court meeting prescribed requirements.
Existing law requires the State Department of Social Services to develop statewide standards for the Independent Living Program for emancipated foster youth established and funded pursuant to federal law, to assist these individuals in making the transition to self-sufficiency. Under existing law, a child in receipt of Kinship Guardianship Assistance Payment (Kin-GAP) Program benefits is also entitled to request and receive these independent living services.
- ***SB 945 (Liu), Juvenile court jurisdiction: services and benefits***
Status: As of 6/30/10, scheduled for Assem. 3d reading
Would require a probation officer or parole officer, whenever the juvenile court terminates jurisdiction over a ward or upon release of a ward from a facility that is not a foster care facility, to provide to the ward a written notice stating that he or she is a former foster child and may be eligible for the services and benefits that are available to former foster children through public and private programs, as well as information on federal and state programs that provide independent living services and benefits to former foster children for which the ward is or may be eligible.

California Independent Living Program Transformation Breakthrough Series Collaborative

- Initiated by participation in National Governor’s Association Policy Academy on Youth Transitioning Out of Foster Care in conjunction with CDSS and Casey Family Programs.
- Broadly represents, with nine county teams, state leadership, partners, and advocacy organizations.
- Changing practice to improve outcomes in permanency, education, and employment.

Statewide Efforts Advancing Court Reform

State Legislation—Chaptered

- ***AB 131 (Evans; Stats. 2009, ch. 413), Juvenile proceedings: costs***
Would provide that parents or other persons liable for the support of a minor in the dependency court shall also be liable for the cost to the county or the court for the cost of legal services rendered to the minor and provides a mechanism for collection and deposit. This could lead to a reduction of caseloads by increasing the funds available for appointed counsel in dependency cases.

Judicial Council

- Amended, in October 2009, California Rules of Court, rule 8.416 to allow trial and appellate courts to agree to follow expedited procedures for appeals in juvenile dependency cases that are now followed in the Superior Courts of Orange, Imperial, and San Diego Counties was passed by the council in October 2009. The new forms took effect on July 1, 2010.
- Allocated special funds in 2009 to maintain court-appointed counsel budget at fiscal year 2008–2009 levels.
- Engaged in collaborative advocacy in Sacramento on child welfare and judicial branch budgets.
- Adopted, in June 2010, a competitive solicitation policy applicable to Dependency Representation, Administration, Funding, and Training (DRAFT) program courts; directed staff to work with the Trial Court Budget Working Group, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee to develop recommendations regarding whether such a policy should be adopted for non-DRAFT courts. Implementation of a standardized and universal competitive solicitation policy will enable funding of the court-appointed counsel program to be maximized and will provide

transparency and objectivity to a process that currently has the potential to be viewed as arbitrary.

Administrative Office of the Courts

- Completed, in May 2010, a statewide survey of dependency attorneys that assesses and prioritizes the non-dependency legal needs of parents and children in California’s child welfare system.
- Providing training and technical assistance to 28 courts with current or developing mediation programs.
- Providing training and technical assistance to most counties on developing nonadversarial child welfare-based practices such as family group conferencing, team decision-making, and family team meetings.

Statewide Efforts Advancing Collaboration

Judicial Council and Partner Stakeholders

- Data-sharing Memoranda of Understanding between CDSS and sister agencies.
- Continuing significant collaborative work on interoperable systems.

Statewide Efforts Advancing Resources and Funding

California Department of Social Services

- Will release regulations regarding caregiver decisions under the “reasonable and prudent parent” standard.

Conclusion: Reaching for a Brighter Future

When the commission began its work almost five years ago, it made a promise to the children and families in California's foster care system. Inspired by the hundreds of people—foster youth, parents, caregivers, social workers, judges, attorneys, CASAs, and others—who shared their stories and their suggestions for improvement, it pledged to develop fiscally responsible, realistically achievable recommendations to improve outcomes related to safety, permanency, well-being, and fairness in this state's overstressed juvenile dependency and child welfare systems.

After an unprecedented three-year collaborative effort, it did just that. Its recommendations offer a coordinated plan for reform that ties together state and federal foster care initiatives with local commissions to implement them. Its action plan offers a blueprint for collaborative success that, when fully implemented, promises to help ensure every child a safe, secure, and permanent home by:

- Keeping children and families together whenever it is safe and possible to do so;
- Changing the way juvenile dependency courts do business;
- Increasing collaboration among the courts and their child welfare partners; and
- Finding the resources to get the job done.

And, after more than a year of implementation activity, much has been accomplished at the federal, state, and local levels that significantly advances the commission's recommendations to reform the juvenile dependency court and child welfare systems in California—accomplishments that have occurred despite severe budgetary and economic challenges. Commissioners believe that this progress demonstrates the transformative power of collaboration.

The commission met in May 2010 to evaluate its progress in implementing the recommendations and to plan its priorities for the coming year. After reviewing the work of the last year and a half, the commissioners affirmed their commitment to seeing their initial action plan through until it is fully implemented. They pledged, in particular, to focus on, as a high priority, recommendations relating to prevention and permanency with a greater emphasis on reunification. The commissioners decided to

add to their 79 existing recommendations a new recommendation encouraging reunification, to include incentives for reunification and post-permanency services.

When the Blue Ribbon Commission’s term expires in two years, California has in place the Child Welfare Council, a permanent collaborative infrastructure created legislatively that is already engaged in and will carry on this important work. The Blue Ribbon Commission’s chair, Justice Carlos R. Moreno, co-chairs the Child Welfare Council with Kimberly Belshé, Secretary of the California Health and Human Services Agency. This advisory body is responsible for improving the collaboration and processes of the multiple agencies and courts that serve children and youth in the child welfare and foster care systems. It includes all three branches of California’s government and demonstrates this state’s commitment to collaboration at the highest levels.

Recently, California Chief Justice Ronald M. George announced that he would retire at the end of his term after 19 years on the California Supreme Court, 14 as Chief Justice. His legacy as an advocate on behalf of this state’s most vulnerable children and families is notable. During his tenure, he established the Center for Families, Children & the Courts as a division of the Administrative Office of the Courts—California was a pioneer in having a division dedicated to improving access to justice for children and families. He has always spoken eloquently of the importance of the work of the juvenile and family law courts. And when he realized the desperate needs of this state’s juvenile dependency court and child welfare systems, he established the Blue Ribbon Commission on Children in Foster Care. California has the largest court system in the nation, and the Blue Ribbon Commission is the first statewide body to focus on the court’s role in child welfare. The work of the commission will make a difference across the country far beyond its lifetime.

The Chief Justice put this work in perspective when he addressed the National Council of Juvenile and Family Court Judges in Monterey in 2001:

Our children and our families are our future. How we treat them says much about us as a society—and will determine what our society will look like in the future. It is safe to say that no family truly wishes to find itself before the courts—after all, marital dissolution, child custody, child neglect, delinquency, and criminal conduct typically are the

“Our children and our families are our future. How we treat them says much about us as a society—and will determine what our society will look like in the future.”

—Hon. Ronald
M. George
Chief Justice of the
Supreme Court of
California; Chair of the
Judicial Council

reasons that bring them there. What we do for these families in trouble—how we treat them and the resources we can bring to bear to assist them can have profound consequences not only for each affected individual, but also for our society as a whole.

The implementation work of the Blue Ribbon Commission will continue over the next two years, and the commission will provide annual progress reports. During those two years, commissioners will be actively engaged in fulfilling their promise to this state's most vulnerable children and their families—the promise of a brighter future and a real chance for success.

APPENDICES

About the Blue Ribbon Commission on Children in Foster Care

Background on the Blue Ribbon Commission

The Blue Ribbon Commission is a multidisciplinary, statewide body providing leadership on issues that face foster children and their families and the courts and agencies that serve them. It includes judges, legislators, child welfare administrators, former foster youth, caregivers, philanthropists, tribal leaders, advocates for children and parents, and more. A roster of commission members is included at the front of this report.

The establishment of the commission builds on other Judicial Council efforts to improve California's juvenile courts and is consistent with the goals and objectives recently adopted by the Judicial Council. These efforts include a number of programs that are designed to improve the operations of the juvenile dependency courts, including 1) expansion of the Court Improvement Project to increase the number of training programs and to enhance development of data exchanges to improve communication between the courts and child welfare agencies; 2) expansion of the Judicial Review and Technical Assistance (JRTA) program to include specific projects related to improving compliance with the Indian Child Welfare Act and increasing the number of permanent placements for children in foster care; and 3) establishment of the Dependency Representation, Administration, Funding, and Training (DRAFT) program relating to attorney representation of parents and children in juvenile dependency court.

There was national impetus behind the commission's formation as well, including the Pew Commission on Children in Foster Care, which was established in 2003. The Pew Commission was charged with developing nationally focused recommendations to improve outcomes for children in foster care. Former U.S. Representatives Bill Frenzel and William H. Gray III served as chair and vice-chair respectively. William C. Vickrey, California's Administrative Director of the Courts, was one of 18 members representing a broad cross-section of organizations involved in foster care issues.

In 2004, the Pew Commission issued its recommendations, which focused on federal child welfare funding mechanisms and improving court oversight of child welfare cases. The recommendations called for the courts and public agencies to collaborate more effectively by establishing multidisciplinary, broad-based state commissions on children in foster care. That recommendation, together with the reality of seriously overstressed and underresourced dependency courts and a child welfare system in crisis, led the Chief Justice of California to establish the California Blue Ribbon Commission on Children in Foster Care.

Blue Ribbon Commission's mandate

The commission's charge was to develop recommendations focused on four areas:

- How courts and their partners could improve the child welfare system, including an implementation plan;
- Improved court performance and accountability in achieving safety, permanency, wellbeing, and fairness for all children and families in the child welfare system;
- Improved collaboration and communication among courts and child welfare agencies and others, including the development of permanent local county commissions that support ongoing efforts; and
- Greater public awareness of the court's role in the foster-care system and the need for adequate and flexible funding.

The Commission's process of developing its recommendations

The Blue Ribbon Commission deliberated over the course of two years, holding public meetings, hearings, focus groups and other activities. Members attended site visits to see programs and courtrooms firsthand. The commission heard from a variety of juvenile court and child welfare experts and from social workers, families, children, and youth who have been in the child welfare system. Their experiences and their suggestions for reform proved invaluable as the commission developed its recommendations and action plan.

The commission also drew from significant research provided by the County Welfare Directors Association of California; the Center for Social Services Research at the University of California at Berkeley; Chapin Hall Center for Children at the University of Chicago; Child Trends; the U.S. Department of Health and Human Services, Administration for Children and Families; and the Urban Institute.

After nearly two years of information gathering, the commission developed draft recommendations for public comment in March 2008. It held public hearings on the proposed recommendations in Los Angeles and San Francisco. In response to the public comment and testimony, the commission reviewed and revised the recommendations at a June 2008 commission meeting.

The commission's final recommendations fall under four broad categories:

1. Reasonable efforts to prevent removal and achieve permanency;
2. Court reform;
3. Collaboration among courts and partnering agencies; and
4. Resources and funding.

The full set of recommendations can be found in the appendix to this report. They include the four overall recommendations and 79 specific recommendations. Of the specific recommendations, 26 of them are within the purview of the Judicial Council and can be accomplished within the judicial branch of government. The remaining recommendations require collaboration with child welfare and other agency partners.

Highlights of the Commission's Recommendations

Reasonable efforts to prevent removal and achieve permanency

- **Increasing the Number of Placements With Relatives (Kinship)**
That child welfare agencies engage family members as early as possible in each case, and the Judicial Council work with state and federal leaders to develop greater flexibility in approving placements with relatives when necessary.
- **Reducing the Disproportionate Representation of African-American and American Indians in the Child Welfare System**
That the courts and child welfare agencies reduce the disproportionate number of African-American and American Indian children who are in the child welfare system.
- **Providing Extended Support for Transitioning Youth**
That the Judicial Council urge the California Legislature to extend the age for children to receive foster-care assistance from 18 to 21.

Court reform

- **Reducing the Caseloads of Judicial Officers, Attorneys, and Social Workers**
That the Judicial Council work to reduce the high caseloads of judicial officers and attorneys, and work with state and county child welfare agencies to reduce the caseloads of social workers.
- **Ensuring a Voice in Court and Meaningful Hearings**
That the courts ensure that all participants in dependency proceedings, including children and parents, have an opportunity to be present and heard in court. Court-Appointed Special Advocates (CASA) programs should be expanded to make CASA volunteers available in every case.

- **Ensuring That All Attorneys, Social Workers, and Court-Appointed Special Advocates (CASA) Are Adequately Trained and Resourced**
That the Judicial Council advocate for sufficient resources to implement caseload standards, and the Administrative Office of the Courts expand multidisciplinary training and opportunities.

Collaboration among courts and child welfare partners

- **Facilitating Data and Information Exchange**
That the Judicial Council support the courts and all partners in the child welfare system in eliminating barriers to the exchange of essential information and data about the children and families they serve. The Judicial Council should implement court performance measures to improve foster-care outcomes as mandated by state law.
- **Establishing Local Foster Care Commissions**
That the courts and child welfare agencies jointly convene multidisciplinary commissions at the county level to identify and resolve local child-welfare concerns and to help implement the commission's recommendations and related reforms.
- **Improving Indian Child Welfare**
That the courts, child welfare agencies and other partner agencies collaborate with Indian tribes and tribal courts to ensure that Indian children and families receive the services for which they are eligible.

Resources and funding

- **Prioritizing Foster Care**
That all agencies and the courts make children in foster care and their families a top priority when providing services and when allocating and administering public and private resources.
- **Advocating for Flexible Funding for Child-Abuse Prevention and Services**
That the Judicial Council work with state and federal leaders to allow greater flexibility in the use of funds for child-abuse prevention and eliminate barriers to coordinating funds for child abuse prevention and services.
- **Expanding Educational Services**
That all agencies and the courts make access to education and all of its related services a top priority when working with foster children and youth.

California Blue Ribbon Commission on Children in Foster Care Final Recommendations to the Judicial Council

1

Recommendation 1 Reasonable Efforts to Prevent Removal and Achieve Permanency

Because families who need assistance should receive necessary services to keep children safely at home whenever possible, the Blue Ribbon Commission recommends that the Judicial Council, the California Department of Social Services, and local courts and child welfare agencies implement improvements to ensure immediate, continuous, and appropriate services and timely, thorough review for all families in the system.

1A

Children and families need access to a range of services to prevent removal whenever possible. All reasonable efforts should be made to maintain children at home in safe and stable families. The courts should make an informed finding as to whether these efforts actually have been made.

The Blue Ribbon Commission recommends that:

- The courts and partnering agencies tailor resources to make sure they have sufficient information and time to establish that all reasonable efforts have been made to prevent removal.
- All children and families receive timely and appropriate mental health, health care, education, substance abuse, and other services, whether children reside with their own parents or with relatives, foster parents, guardians, or adoptive parents or are in another setting.
- At the earliest possible point in their involvement with the family, child welfare agencies engage family members, including extended family wherever they may live, to support the family and children in order to prevent placement whenever possible. Child welfare systems should develop and improve internal protocols for finding family members.
- The courts and partnering agencies work to reduce the disproportionate number of African-American and American Indian children in the child welfare system.
- Judicial officers, attorneys, social workers, and other professionals who serve foster children and their families increase the diversity and cultural competence of the workforce.
- The Judicial Council work with local, state, and federal leaders to advocate for greater flexibility in the use of federal, state, and local funding for preventive services.

1B

If foster care placement is necessary, children, families, and caregivers should have access to appropriate services and timely court reviews that lead to permanency as quickly as possible. Service delivery and court review should ensure that all reasonable efforts are made to return children home, to make sure families and workers comply with case plans, and to achieve timely and stable transitions home or, if necessary, to place with relatives or in another permanent, stable family.

The Blue Ribbon Commission recommends that:

- The Judicial Council work with state and federal leaders to advocate changes in law and practice to increase and encourage more relative placements, including:
 - Addressing funding disparities;
 - Developing greater flexibility in approving relative placements whereby relatives would not, by virtue of federal law, be held to the same standard as nonrelatives; and
 - Formulating protocols to facilitate swift home assessments and placement with family members when appropriate.
- The courts and child welfare agencies expedite services for families and ensure that foster children maintain a relationship with all family members and other important people in their lives.
- The courts ensure that children who cannot return home receive services and court reviews to enable them to successfully transition into a permanent home and into adulthood. This includes paying attention to each child's language, development, and cultural needs in making decisions about home and school placements, visitation, education, and mental health needs. It also means making sure they have consistent community ties and help from supportive adults, such as mentors, as they grow up.
- All court participants continuously review and make extraordinary efforts to preserve and promote sibling connections and co-placement.
- Children and families receive continuous and comprehensive services if a child enters the delinquency system from foster care.
- The Judicial Council and the state Department of Social Services work together to urge Congress, the state Legislature, and state and local agencies to ensure that THP-Plus programs for transitional housing sustain a level of funding sufficient to maintain and expand program capacity to meet the demonstrated need of youth aging out of the foster care system.
- The Judicial Council work with federal and state leaders to support or sponsor legislation to extend the age when children receive foster care assistance from age 18 to age 21. This change should apply to those children who at age 18 cannot be returned home safely, who are not in a permanent home, and who choose to remain under the jurisdiction of the court. If the court terminates jurisdiction before a youth's 21st birthday, the youth should have the right to reinstatement of jurisdiction and services.
- The Judicial Council work with local, state, and federal leaders to develop practices, protocols, and enhanced services to promote both placement and placement stability of children and youth in family-like, rather than institutional, settings.

2

**Recommendation 2
Court Reforms**

Because the courts are responsible for ensuring that a child’s rights to safety, permanency, and well-being are met in a timely and comprehensive manner and that all parties are treated fairly in the process, the Blue Ribbon Commission recommends that the Judicial Council and the trial and appellate courts make children in foster care and their families a priority when making decisions about the allocation of resources and administrative support.

2A

The trial and appellate courts must have sufficient resources to meet their obligations to children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- Consistent with Judicial Council policy, judges—not subordinate judicial officers—hear dependency and delinquency cases. Pending a full transition from subordinate judicial officers to judges (through reassignment or conversion of subordinate judicial officer positions to judgeships), presiding judges should continue the assignment of well-qualified and experienced subordinate judicial officers to juvenile court.
- The Judicial Council work with bar organizations, the Governor’s office, and state and local leadership to ensure that juvenile law experience is given favorable consideration during the judicial appointment and assignment process and well-qualified subordinate judicial officers and attorneys with juvenile law experience are encouraged to apply for vacant judicial positions.
- Presiding judges follow standard 5.40 of the California Standards of Judicial Administration and assign judges to juvenile court for a minimum of three years and give priority to judges who are actively interested in juvenile law as an assignment.
- The Judicial Council undertake a new judicial caseload study focused specifically on juvenile dependency courts. The study should take into account the court’s unique oversight and case management responsibilities and address the use of case managers to support judges in meeting their workloads.
- Pending completion of the study, presiding judges evaluate their current allocation of judgeships and resources and make adjustments as necessary. If reallocation of existing resources is not sufficient, the Judicial Council should seek additional funding to ensure full implementation of the standards and statutory requirements.
- The Administrative Office of the Courts (AOC) help courts comply with the judicial standard outlining the knowledge, commitment, and leadership role required of judicial officers who make decisions about children in foster care (see standard 5.40 of the California Standards of Judicial Administration). Presiding judges of the superior courts should receive training in the role and duties of juvenile court judicial officers as outlined in the standard.

2B

All participants in dependency hearings and subsequent appeals, including children and families, should have an opportunity to be heard and meaningfully participate in court.

The Blue Ribbon Commission recommends that:

- Judicial officers identify and engage all parties in each case as early as possible. A particular emphasis should be placed on finding fathers and identifying Indian tribes where applicable.
- Judicial officers and other stakeholders remove barriers that prevent children, parents, and caretakers from attending hearings. This includes addressing transportation and scheduling difficulties, as well as exploring telephonic appearances and other technological options.
- The Judicial Council and other stakeholders develop and implement laws and policies to promote relative finding, funding, assessment, placement, and connections.
- The Judicial Council provide an expedited process for all juvenile dependency appeals by extending the application of rule 8.416 of the California Rules of Court to all dependency appeals.
- The Judicial Council require the appointment of independent counsel for all children in juvenile dependency appeals.

2C

Judicial officers should ensure that local court practices facilitate and promote the attendance of children, parents, and caregivers at hearings.

The Blue Ribbon Commission recommends that:

- Hearings be available at times that do not conflict with school or work or other requirements of a family's case plan.
- To the extent feasible, hearings be set for a specific date and time. Delays should be minimized, and hearings should be conducted on consecutive days until completed.
- A concurrent criminal proceeding should not mean delay of a dependency case.
- All parties, including children, parents, and social workers, have the opportunity to review reports and meet with their attorneys before the initial hearing and in advance of all subsequent hearings.
- Hearings be timely and meet all federal and state mandated timelines. Continuances should be minimized, and the reasons for systemic continuances should be addressed by the local court and child welfare agency.
- All participants leave court hearings with a clear understanding of what happened, why decisions were made, and, if appropriate, what actions they need to take.
- The AOC provide judicial officers and court participants with education and support to create courtroom environments that promote communication with, and meaningful participation of, all parties, including children, that takes into account age, development, language, and cultural issues.
- The same judicial officer hear a case from beginning to end, when possible.
- Courts explore telephonic appearance policies and new technology options to ensure participation in juvenile court hearings.

2D

The court's ability to make fair, timely, and informed decisions requires attorneys, social workers, and Court Appointed Special Advocates (CASAs) who are well qualified and have the time and resources to present accurate and timely information to the courts.

The Blue Ribbon Commission recommends that:

- The Judicial Council advocate for the resources, including a stable funding source, necessary to implement the council’s recently adopted attorney caseload standards, to implement caseload standards for social workers, and to develop and implement caseload standards for social services agency attorneys.
- The Judicial Council take active steps to promote the advancement of juvenile law as a sought-after career. Accomplishing this recommendation requires:
 - Fair and reasonable compensation for court-appointed attorneys;
 - Adoption and implementation of a methodology for determining attorney effectiveness;
 - Forgiveness of student loans for attorneys who commit a substantial portion of their careers to juvenile law;
 - That public and nonprofit law offices hire and retain attorneys based on their interest in the field and encourage them to build careers in juvenile law; and
 - Collaboration with State Bar of California leaders to include juvenile dependency law as a mandatory area of study for the California Bar exam and create a State Bar juvenile law section.
- The Administrative Office of the Courts expand multidisciplinary training opportunities for court professionals and other participants, including caregivers, educational representatives, CASA volunteers, and tribal leaders. Training should include conferences as well as distance learning opportunities.
- The Judicial Council continue to support the development and expansion of CASA programs and to help make available CASA volunteers for all foster children in the dependency system. State funding for CASA programs should be expanded to allow for appointments in all cases.
- Local or regional legal advocacy resource centers be established to ensure that the nondependency legal needs of dependent children and their parents are appropriately addressed. This includes education, immigration, tribal enrollment or other requirements to receive the benefits of tribal membership, tort issues, and other issues.

2E

All courts should have nonadversarial programs available as early as possible and whenever necessary for children and families to use to resolve legal and social issues when appropriate.

The Blue Ribbon Commission recommends that:

- Mediation and other forms of alternative dispute resolution be available in all courts at any time in the proceedings.
- Families in all counties have access to other types of court proceedings—drug, mental health, and unified courts, for example—that can help them remain together or, if the children are removed, to stabilize and reunify the family as soon as possible.
- Presiding judges work with agencies to ensure that families in all counties have access to specific nonadversarial child welfare–based practices such as family group conferencing, team decisionmaking, and family team meetings.

2F

The Judicial Council should establish and implement a comprehensive set of court performance measures as required by state law (Welf. & Inst. Code, § 16545).

The Blue Ribbon Commission recommends that:

- The Judicial Council adopt and direct the AOC to work with local courts and state agencies to implement a rule of court that embodies the commission’s following recommendations:
 - Court performance measures include those for safety, permanency, timeliness of court hearings, due process, and child well-being;
 - Court performance measures align with and promote the federal and California Child and Family Services Review outcome measures and indicators;
 - The California Court Case Management System (CCMS) collect uniform court performance data and have the capability to produce management reports on performance measures; and
 - Trial court performance measures be included in a separate Judicial Council–approved AOC Implementation Guide to Juvenile Dependency Court Performance Measures.
- These performance measures and management reports be used for the following:
 - To promote court accountability for ensuring fair and timely hearings and to inform improvements in local case processing;
 - To provide stakeholders and the public with an aggregate picture of the outcomes for children before the court and to increase the public’s understanding of the court’s role in the child welfare system; and
 - To measure compliance with statutory mandates and effective practices.
- The Judicial Council work with the Child Welfare Council and local courts and state agencies to develop uniform child well-being performance measures. Based on these measures, the AOC Center for Families, Children & the Courts should work with local courts to develop and implement educational tools that help courts improve child well-being outcomes.
- The Judicial Council and other stakeholders advocate at the federal, state, and local levels for the funding necessary to implement recommended court performance measures.

3**Recommendation 3
Collaboration Among Courts and Partnering Agencies**

Because the courts share responsibility with child welfare agencies and other partners for the well-being of children in foster care, the courts, child welfare, and other partnering agencies must work together to prioritize the needs of children and families in each system and remove barriers that keep stakeholders from working together effectively.

3A

The Judicial Council, trial courts, and state Department of Social Services should work cooperatively with all departments, agencies, and other stakeholders to ensure optimal sharing of information to promote decisionmaking that supports the well-being of children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- The Judicial Council continue its efforts to fully develop and implement the California Court Case Management System, as well as other data exchange protocols, so that the judicial branch, the California Department of Social Services, and other trusted partners will be able to exchange essential information about the children and families they are mandated to serve.
- CCMS permit judicial officers in dependency courts to access information about children and families who are involved in cases in other courts.
- CCMS and the state Child Welfare Services/Case Management System promote coordinated data collection, data exchange, and filing of documents, including electronic filing, between the courts, social service agencies, and other key partners and track data that permits them to measure their performance.
- The Child Welfare Council prioritizes solutions to federal and state statutory and regulatory policy barriers that prevent information sharing between the courts and their partners and that cause delays in the delivery of services and, hence, delays in permanency for children.
- Data systems in the various agencies evolve to capture the growing complexity of California demographics, including issues such as limited English proficiency, use of psychotropic medications, and disabilities.

3B

The presiding judge of the juvenile court and the county social services or human services director should convene multidisciplinary commissions at the local level to identify and resolve local system concerns, address the recommendations of the Blue Ribbon Commission, and build the capacity to provide a continuum of services.

The Blue Ribbon Commission recommends that:

- These multidisciplinary local commissions include participation from the courts; local government officials; public and private agencies and organizations that support children and families; children, parents, and families in the system; caregivers; and all other appropriate parties to the process.
- These commissions focus on key areas of local concern and activities, including:
 - Undertaking a comprehensive assessment of existing services available in the community; encouraging development of appropriate services that are not

available; coordinating services with tribal services and transitional services; and ensuring that children and families receive the support they need for reunification and permanency;

- Identifying and resolving barriers to sharing information among the courts, agencies, and schools;
- Communicating local needs and concerns to the Child Welfare Council; and
- Raising the visibility and public understanding of foster care issues in their communities.
- The AOC support local commissions in their efforts to collaborate and to avoid duplication with other efforts to achieve positive child welfare outcomes (including county efforts to develop system improvement plans as required by state law).
- All participating agencies prioritize children in foster care, and their families, when providing services.

3C

Courts, child welfare agencies, and other agencies should collaborate with Indian tribes and tribal courts to ensure that the rights of children, families, and tribes are protected and that Indian children and families have access to all appropriate services for which they are eligible.

The Blue Ribbon Commission recommends that:

- The AOC work with state trial courts and tribal courts to establish protocols for identifying and sharing jurisdiction between state and tribal courts and for sharing services, case management, and data among superior courts, tribal courts, and county and tribal service agencies. The protocols established should encourage a mutual understanding of and respect for the procedures in both the state and tribal courts and the challenges that all communities face in providing services for children and families. The AOC collaborate with the state to develop and offer judicial education and technical assistance opportunities to tribal court officers and staff and legal education to tribal attorneys, lay advocates, and service providers.
- The AOC work with the California Department of Social Services to offer ongoing multidisciplinary training and technical assistance to judges, court staff, attorneys, social workers, and other service providers on all of the requirements of the Indian Child Welfare Act.
- Indian children and families have access to the same services as other families and children regardless of whether their cases are heard in state court or tribal court.

4

**Recommendation 4
Resources and Funding**

In order to meet the needs of children and families in the foster care system, the Judicial Council, Congress, the Legislature, the courts, and partnering agencies should give priority to children and their families in the child welfare system in the allocation and administration of resources, including public funding—federal, state, and local—and private funds from foundations that support children’s issues.

4A

The Judicial Council should urge Congress, the state Legislature, and state and local agencies—including agencies and organizations that provide health, mental health, education, substance abuse, domestic violence, housing, employment, and child care services—to prioritize the delivery and availability of services to children and families in the child welfare system.

The Blue Ribbon Commission recommends that:

- Congress and the state Legislature fund dissemination of evidence-based or promising practices that lead to improved outcomes for foster children and their parents. Examples include therapeutic foster care and drug courts.

4B

States and counties should be given permission to use federal funding more flexibly. Flexible funding should be used to address the needs of children and families in a timely manner that recognizes the child’s developmental needs and relationship with his or her parents, guardian, and extended family. The commission supports key financial recommendations of the Pew Commission on Children in Foster Care and encourages innovative funding strategies at the federal, state, and local levels of government.

The Blue Ribbon Commission recommends that:

- The Judicial Council urge Congress to adopt the following federal financing reform recommendations, based on those advocated in 2004 by the Pew Commission on Children in Foster Care, a national panel of experts that issued proposals around financing child welfare and court reforms:
 - Creation of an incentive model for permanency. Based on the adoption incentive, this model would encompass all forms of permanency, including reunification and guardianship, and would offer equal payment levels;
 - Federal adoption assistance for all children adopted from foster care;
 - Federal guardianship assistance for all children who leave foster care to live with a permanent, legal guardian;
 - Elimination of the income limit for eligibility for federal foster care funding;
 - Flexibility for states and counties to use federal funds to serve children from Indian tribes and children living within U.S. territories;
 - Extension of federal title IV-E funding to children in Indian tribes and the U.S. territories;
 - Reinvestment of local, state, and federal dollars saved from reduced foster care placements into services for children and families in the child welfare system;

- Reinvestment of penalties levied in the federal Child and Family Services Review process into program improvement activities; and
- Bonuses when the state demonstrates improved worker competence and lighter caseloads.

4C

No child or family should be denied services because it is unclear who should pay for them. Funding limitations that prohibit or delay the delivery of services to children and families should be addressed through coordinated and more flexible funding.

The Blue Ribbon Commission recommends that:

- The Judicial Council work with other branches of federal, state, and local governments to identify barriers to funding for services and to develop solutions.
- The Judicial Council should urge Congress to change any federal law that prevents federal funds from being coordinated among several agencies to support specific services.

4D

The Judicial Council, along with other stakeholders, should work to improve the foster care system by supporting those who provide care to dependent children.

The Blue Ribbon Commission recommends that:

- The Judicial Council and other stakeholders advocate for increasing foster care rates and supports to enable foster parents to care for their foster children.
- The Judicial Council and other stakeholders advocate for funding and other resources to provide statewide legal and informational support for caregivers so they understand the dependency process and know what to expect in court.

4E

The Judicial Council, the executive and legislative branches of federal and state government, local courts, businesses, foundations, and community service organizations should work together to establish a fund to provide foster youth with the money and resources they need to participate in extracurricular activities and programs to help make positive transitions into adulthood.

The Blue Ribbon Commission recommends that:

- Children in foster care and partnering agencies have access to reliable funding to support their access to extracurricular activities and transitional programs. These activities should include music and dance lessons, sports, school events, and independent living activities.
- Systemic barriers that prevent foster children from participating in the above events be eliminated, including transportation, licensing restrictions, and confusion regarding waivers and consents.

4F

Educational services for foster youth and former foster youth should be expanded to increase access to education and to improve the quality of those services.

The Blue Ribbon Commission recommends that:

- Courts and partnering agencies ensure that foster children receive the full education they are entitled to, including the support they need to graduate from high school. This includes tutoring and participation in extracurricular activities. The courts should require other agencies to justify any denial of such services to foster youth in school.
- The Judicial Council urge Congress and the state Legislature to strengthen current education laws to explicitly include all foster children and to fill funding gaps, such as the lack of support for transportation to maintain school stability.
- The Child Welfare Council prioritizes foster children’s educational rights and work with educators to establish categorical program monitoring to oversee compliance with education laws and regulations that support foster youth in school.
- The California Department of Education designate foster youth as “at-risk” students to recognize that foster care creates challenges and obstacles to a child’s education that other children do not experience and to increase the access of foster youth to local education programs.
- Foster Youth Services grants be expanded to include all children age five or older, including those in kinship placements, because close to half of foster children are placed with kin and Foster Youth Services is not currently funded to serve those children.
- The Judicial Council urge legislative bodies and higher education officials to expand programs, such as the Guardian Scholars, statewide to ensure that all current and former foster youth who attend college have access to housing and other support services and to waive tuition and other educational fees for current and former foster youth.



JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS

Resolution
Blue Ribbon Commission on Children in Foster Care

Whereas all children need safe, permanent families that love, nurture, protect, and guide them;

Whereas, although foster care is absolutely critical to protecting children who cannot stay safely in their own homes, it is intended to be a short-term refuge rather than a long-term saga;

Whereas, on an average day, California has approximately 97,000 children in foster care;

Whereas, although the number of all children in California account for approximately 13 percent of all children in the United States, California children in foster care comprise approximately 19 percent of the total United States foster care population;

Whereas in California, of the more than 491,000 referrals to social services of child abuse or neglect, approximately 110,000 or 22 percent, were substantiated by child welfare staff;

Whereas youth who leave the foster care system are often ill prepared for what follows—more than half are unemployed, almost a third become homeless, and one in five will be incarcerated within two years;

Whereas the California Judicial Council recognizes that the safety, permanency, and well-being of children under court supervision is paramount;

Whereas the Judicial Branch is dedicated to improving the quality of justice and services to meet the diverse needs of children, youth, and families in California by building partnerships with other local and statewide agencies and professions that work with children and families throughout our state;

Whereas, although there have been individual efforts to see that children are safe in foster care, and efforts to improve the judicial process, systemic improvements are needed to meet the needs of children in foster care and in the child welfare system, and these improvements can best be achieved through collaboration between the courts, child welfare, education, medical, and mental health partners, and other public and private agencies and individuals;

Whereas institutionalization of this collaboration will ensure that systemic improvements are sought and achieved beyond the terms of office of individual members of the judiciary, agency directors, and elected officials;

Whereas the state's ability to respond to the needs of vulnerable children is primarily financially supported by federal funding and whereas federal guidelines on the use of funds limits California's ability to invest those limited resources in smarter and more effective ways to benefit children and families;

Now, therefore, be it resolved

That a Blue Ribbon Commission on Children in Foster Care is established as a high-level, multidisciplinary body to provide leadership and recommendations to improve the ability of the federal government, California's state and local agencies, and the courts to protect children in California by helping them to become part of a permanent family that will provide a safe, stable, and secure home;

That, in its deliberations, the Commission shall develop recommendations

- Creating a set of comprehensive strategies and effective approaches to reduce the number of children in foster care by reducing the number of children entering foster care and reducing the length of time in foster care while ensuring they have safe, secure, and stable homes
- Successfully implementing the Judicial Council's goals and objectives, including those on ensuring appropriate judicial and staff resources and establishing stable funding for juvenile courts
- Successfully implementing the recommendations of the Pew Commission on Children in Foster Care, as adopted by the Judicial Council, including those on strengthening court oversight, improving collaboration, and ensuring flexible funding
- Advocating effective approaches to secure greater flexibility for federal funding so that California can meet the critical objective of permanency through prevention, early intervention, reunification, guardianship, and adoption
- Ensuring that all children receive sufficient mental health, health care, education, and other services whether they reside with family, foster parents, relatives, adoptive parents, or in other placements
- Institutionalizing a permanent collaborative model that will ensure that systemic improvements are sought and achieved beyond the tenure of this Commission
- Proposing other initiatives it deems appropriate;

That the Commission, led by Justice Carlos R. Moreno of the California Supreme Court, shall conduct its inquiry in a manner that broadens public awareness of and support for meeting the needs of vulnerable children and families;

That at the conclusion of the Commission's investigation and deliberations, the Commission will host a statewide conference for multidisciplinary teams from each county for the purpose of establishing permanent foster care commissions in each county; and

That the Commission shall file an interim and final report with the California Judicial Council, recommending appropriate action to serve and meet the needs of children and families in California's foster care and child welfare system.

Signed at San Francisco, California, this ninth day of March, 2006


RONALD M. GEORGE

*Chief Justice of California and
Chair of the Judicial Council of California*


WILLIAM C. VICKREY

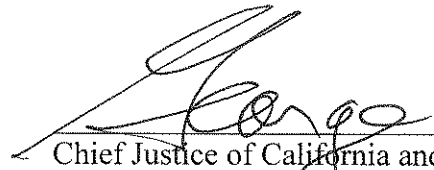
Administrative Director of the Courts

THE JUDICIAL COUNCIL OF CALIFORNIA

Effective June 30, 2009, the terms for the following members of the California Blue Ribbon Commission on Children in Foster Care are extended from June 30, 2009 to June 30, 2012:

Hon. Carlos R. Moreno, Chair	Ms. Robin Allen	Mr. Michael D. Antonovich
Hon. Lucy Armendariz	Ms. Mary L. Ault	Hon. Karen Bass
Hon. Richard C. Blake	Mr. Lawrence B. Bolton	Mr. Curtis L. Child
Ms. Miryam J. Choca	Mr. Joseph W. Cotchett	Mr. Michael S. Cunningham
Hon. Kathryn Doi Todd	Jill Duerr Berrick, Ph.D.	Hon. Leonard P. Edwards (Ret.)
Mr. Raul A. Escatel	Ms. Deborah Escobedo	Hon. Terry B. Friedman
Mr. Robert E. Friend	Hon. Richard D. Huffman	Hon. Susan D. Huguenor
Ms. Teri Kook	Ms. Miriam Aroni Krinsky	Ms. Amy Lemley
Mr. Will Lightbourne	Hon. William Maze	Ms. Donna C. Myrow
Hon. Michael Nash	Mr. David Neilsen	Ms. Diane Nunn
Mr. John O'Toole	Mr. Derek Peake	Mr. Jonathan Pearson
Ms. Linda Penner	Mr. Anthony Pico	Ms. Patricia S. Ploehn
Ms. Maria D. Robles	Mr. Alan Slater	Hon. Darrell S. Steinberg
Hon. Dean T. Stout	Mr. John Wagner	Ms. Jacqueline Wong

June 23, 2009


Chief Justice of California and
Chair of the Judicial Council



Judicial Council of California
Administrative Office of the Courts

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

June 23, 2009

Hon. Richard C. Blake
Chief Judge
Hoopa Valley Tribal Court
P.O. Box 1389
Hoopa, California 95546

Dear Chief Judge Blake:

I am pleased to extend your appointment to the California Blue Ribbon Commission on Children in Foster Care for a term ending on June 30, 2012. A copy of the order reflecting this extension is enclosed.

As you know, the Blue Ribbon Commission was originally charged with making recommendations to the Judicial Council on strategies to improve this state's foster care system and juvenile courts. To ensure implementation of the recommendations formally received by the Judicial Council on August 15, 2008, the commission's charge going forward will also include the following additional duties:

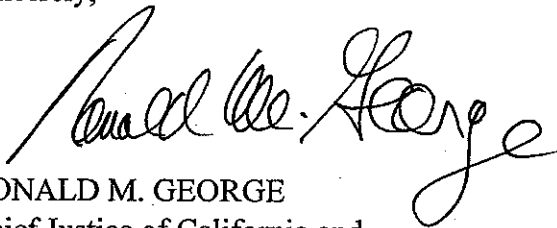
- Under the direction of the Judicial Council, implement as appropriate the recommendations of the California Blue Ribbon Commission on Children in Foster Care accepted by the Judicial Council on August 15, 2008;
- Select and refer recommendations, as appropriate, to a Judicial Council advisory committee, division of the Administrative Office of the Courts, or another entity for implementation, including for review and preparation of proposed legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes;
- Provide support and assistance to county level local foster care commissions as they work to implement commission recommendations;

- Support the efforts of court's partnering agencies to implement commission's recommendations;
- Study the need for additional resources that local courts may require to implement the recommendations; and
- Report progress to the Judicial Council by June 2010.

I have reappointed California Supreme Court Associate Justice Carlos R. Moreno as chair of the commission. Mr. Christopher Wu, Supervising Attorney, AOC's Center for Families, Children & the Courts, is lead staff for the commission. Mr. Wu will contact you to schedule the first commission meeting and will send you pertinent commission information.

Please accept my personal thanks for your continuing dedication to this important commission. This extension will permit you to participate in important implementation activities. William C. Vickrey, Administrative Director of the Courts, and I look forward to receiving your progress report in June 2010.

Sincerely,



RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council

RMG/DN/CW/cb

Enclosure

cc: William C. Vickrey, Administrative Director of the Courts
Ronald G. Overholt, AOC Chief Deputy Director
Sheila Calabro, Regional Administrative Director, AOC Southern Region
Jody Patel, Regional Administrative Director, AOC Northern/Central Region
Christine Patton, Regional Administrative Director, AOC Bay Area/Northern Coastal Region
Curtis L. Child, Director, AOC Office of Governmental Affairs
Diane Nunn, Director, AOC Center for Families, Children & the Courts
Christopher Wu, Supervising Attorney, AOC Center for Families, Children & the Courts

**Blue Ribbon Commission on Children in Foster Care
Implementation Progress Report – August 2010
Building a Brighter Future for California’s Children:
Making Progress in Tough Economic Times**

Sources

1. Fostering a New Future for California’s Children – Ensuring Every Child a Safe, Secure and, Permanent Home. Final Report and Action Plan. Blue Ribbon Commission on Children in Foster Care. Administrative Office of the Courts /Center for Families, Children & the Courts. May 2009. Available at:
<http://www.courtinfo.ca.gov/jc/tflists/documents/brc-finalreport.pdf>.
2. FACTS-AT-A-GLANCE , California Dependency Courts. California Blue Ribbon Commission on Children in Foster Care. July 2008. Available at:
<http://www.chhs.ca.gov/initiatives/CACChildWelfareCouncil/Pages/BlueRibbonCommissiononChildrenandFosterCare.aspx>
3. The Operational Plan for California’s Judicial Branch, 2008–2011. Judicial Council of California/Administrative Office of the Courts. 2008. Available at:
http://www.courtinfo.ca.gov/reference/2_annual.htm
4. The Pew Commission on Children in Foster Care. Website: <http://pewfostercare.org/>
5. Fostering the Future: Safety, Permanence and Well-Being for Children in Foster Care. Final Report. The Pew Commission on Children in Foster Care. 2004. Available at:
<http://pewfostercare.org/docs/index.php?DocID=47>
6. Fostering Connections to Success and Increasing Adoptions Act of 2008. U.S. Government. H.R. 6893. 110th Congress (2007–2008). Public Law: 110-351. Legislation available at: <http://www.gpoaccess.gov/plaws/browse.html>
Summary available at:
<http://www.casey.org/Resources/Publications/FosteringConnectionsSummary.htm>

7. Judicial Council proposal creating new rules and forms to implement the mandates and legislative intent of Assembly 938 out for comment as of April 2010. Available at: <http://www.courtinfo.ca.gov/invitationstocomment/documents/spr10-33.pdf>
8. Permanency Committee Recommendations. California Child Welfare Council. September 10, 2009. Available at: <http://www.chhs.ca.gov/initiatives/CAChildWelfareCouncil/Pages/CommitteeDraftRecommendations.aspx>
9. Miller, Oronde A. Reducing Racial Disproportionality And Disparate Outcomes for Children And Families Of Color In The Child Welfare System. Breakthrough Series Collaborative. Casey Family Programs. July 2009. Available at: http://www.casey.org/Resources/Publications/BreakthroughSeries_ReducingDisproportionality.htm
10. Danielson, Caroline and Helen Lee. Foster Care in California: Achievements and Challenges. Public Policy Institute of California. Supported with funding by the Stuart Foundation. May 2010. Available at: <http://www.ppic.org/main/publication.asp?i=905>
11. Juvenile Delinquency Court Orientation video. Administrative Office of the Courts/Center for Families, Children & the Courts. June 2010. Available at: <http://www.courtinfo.ca.gov/selfhelp/family/delinq/>
12. Fact Sheet: Tribal Projects Unit. Administrative Office of the Courts/Center for Families, Children & the Courts. November 2009. Available at: <http://www.courtinfo.ca.gov/programs/cfcc/programs/description/TribalProjectUnit.htm>
13. California Dependency Online Guide (CalDOG). Judicial Council of California/Administrative Office of the Courts. Available at: www.courtinfo.ca.gov/dependencyonlineguide

14. AOC Briefings: Sharing Information for Children in Foster Care (draft versions). Four-part series – Education, Health Care, Mental Health and Substance Abuse. Administrative Office of the Courts/Center for Families, Children & the Courts. February 2010. Available at the California Child Welfare Council, Data Linkage and Information Sharing Committee website:
<http://www.chhs.ca.gov/initiatives/CACChildWelfareCouncil/Pages/DataInformationandDataSharingCommittee.aspx>
15. Newsletters: Foster Care Reform Update. Blue Ribbon Commission on Children in Foster Care. Available at: <http://www.courtinfo.ca.gov/jc/tflists/bluerib-newsletter.htm>
16. California Child Welfare Council. California Health and Human Services Agency. Website: <http://www.chhs.ca.gov/initiatives/CACChildWelfareCouncil/Pages/default.aspx>
17. Fact Sheet: California Tribal Court/State Court Coalition. Judicial Council of California/ Administrative Office of the Courts. Press Release: May 20, 2010. Available at: <http://www.courtinfo.ca.gov/presscenter/newsreleases/>
18. Clearinghouse of Resources. AOC Tribal Projects Unit. Available at: <http://www.courtinfo.ca.gov/programs/cfcc/programs/description/TribalProjectUnit.htm>
19. Office of Juvenile Justice and Delinquency Programs, Office of Justice Programs. Website: <http://www.ojjdp.ncjrs.gov/index.html>
20. California Rules of Court. Title Five. Family and Juvenile Rules (5.1 – 5.830). Rule 5.505. Juvenile dependency court performance measures. Available at: http://www.courtinfo.ca.gov/rules/index.cfm?title=five&linkid=rule5_505
21. Foster Youth Services. California Department of Education. Website: <http://www.cde.ca.gov/ls/pf/fy/>

22. Child Development/Successful Youth Transitions Committee. California Child Welfare Council. Website:
<http://www.chhs.ca.gov/initiatives/CAChildWelfareCouncil/Pages/ChildDevelopmentSuccessfulYouthTransitionsCommittee.aspx>

23. California Rules of Court. Title Eight. Appellate Rules (8.1 – 8.1125). Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in Orange, Imperial, and San Diego Counties and in other counties by local rule. Available at:
http://www.courtinfo.ca.gov/rules/index.cfm?title=eight&linkid=rule8_416

24. Local Blue Ribbon Commissions website. Accessible via the California Dependency Online Guide (CalDOG) subscription. Available at:
www.courtinfo.ca.gov/dependencyonlineguide

25. Technical Assistance Tools. Family Law and Indian Child Welfare Act (ICWA). Tribal Projects Unit. Administrative Office of the Courts/Center for Families, Children & the Courts. Available at:
<http://www.courtinfo.ca.gov/programs/cfcc/programs/description/TribalProjectUnit.htm>

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Chief Justice Creates Commission on Future of the Courts

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FOR RELEASE
 Contact: [Teresa Ruano](#), 415-865-7740
 July 9, 2014

Chief Justice Creates Commission on Future of the Courts

Commission will examine ways to increase efficiency of legal system



California Supreme Court
 Associate Justice Carol A.
 Corrigan will chair the
 commission.

SAN FRANCISCO—Chief Justice Tani G. Cantil-Sakaue announced today the creation of the Commission on the Future of California's Court System to study and make recommendations to improve the state's court operations and accessibility. In the next two years, the commission will examine ways to increase the efficiency of adjudicating cases in civil, criminal, traffic, juvenile, and family law matters, as well as ways to enhance the underfunded court system's fiscal stability.

"We are at a pivotal moment for our financially strapped judicial system," the Chief Justice said. "The commission's charge will be to take a fresh look at legal and structural challenges to long-term efficiency and stability for the judicial branch and develop practical, achievable recommendations that may be implemented by the Judicial Council, the Legislature, or the Governor."

The Chief Justice announced the commission's leadership today; further members and subcommittees will be appointed at a later date. Supreme Court Associate Justice [Carol A. Corrigan](#) will head the commission. Justices, judges, and court executives from a cross-section of courts will serve on the commission's executive committee. In addition, liaisons from public and private sector entities such as state and local government, the bar, labor, business, and other public policy groups will provide essential expertise. Administrative Presiding Justice [William R. McGuiness](#), of the Court of Appeal, First Appellate District, will serve as the commission's vice-chair.

Other members of the executive committee include: Justice James Humes and Justice Peter Siggins of the First Appellate District, Justice Steven Perren of the Second Appellate District, Justice Louis Mauro of the Third Appellate District, Justice Judith Haller, Justice Douglas P. Miller, and Justice Kathleen O'Leary of the Fourth Appellate District, Justice Charles Poochigian of the Fifth Appellate District, Justice Patricia Manoukian of the Sixth Appellate District, Judge Stacy Boulware-Eurie and Judge Emily Vasquez from the Sacramento Superior Court, Los Angeles Superior Court Judge Carolyn Kuhl, Santa Clara Superior Court Judge Patricia Lucas, San Bernardino Superior Court Judge Marsha Slough, Monterey Superior Court Judge Carrie Panetta, retired Placer Superior Court Judge Richard Couzens, Santa Clara Superior Court Executive Officer David Yamasaki, Placer Superior Court Executive Jake Chatters, and Fifth Appellate District Clerk/Administrator Charlene Ynson. Former State Bar President Patrick Kelly has been named as a special liaison to the executive committee. Lead administrative support will be provided by Jody Patel, Chief of Staff for the Judicial Council.

"I am immensely grateful that committee members have agreed to take on this significant task," the Chief Justice said. "It's the next logical step in my ongoing efforts to look at how the judicial branch conducts its business. My expectation is that the full commission will be appointed by the fall and will hold its first meeting by December. I hope it will be able to report back to me within 24 months."

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Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 23, 2013

Title

Domestic Violence: Final Implementation
Report of the Domestic Violence Practice and
Procedure Task Force

Agenda Item Type

Action Required

Effective Date

September 1, 2013

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

August 8, 2013

Recommended by

Domestic Violence Practice and Procedure
Task Force
Hon. Laurence D. Kay (Ret.), Chair

Contact

Diane Nunn, Director, Center for Families,
Children & the Courts (CFCC),
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Executive Summary

The Domestic Violence Practice and Procedure Task Force recommends that the Judicial Council direct the Family and Juvenile Law Advisory Committee to be responsible for a proposal about firearm relinquishment in family law matters and the Violence Against Women Education Project (VAWEP) Planning Committee, whose members are selected by the advisory committee co-chairs, to be responsible for the remainder of the task force's projects. The task force further recommends that the Family and Juvenile Law Advisory Committee and VAWEP consult with other interested committees and groups to develop a process to address ongoing and emerging issues of court practice and procedure in criminal and civil domestic violence cases. These recommended efforts would ensure continued progress on the council's commitment to improving practices and procedures in domestic violence cases. Also, restructuring the governance, structure, and organization of the Judicial Council's advisory groups improves the function of these groups.

Recommendation

The Domestic Violence Practice and Procedure Task Force recommends that the Judicial Council receive and accept the task force's final implementation report and, effective September 1, 2013:

1. Direct the Family and Juvenile Law Advisory Committee to continue to be responsible for the draft rule on firearms relinquishment developed as a consensus draft by the advisory committee and the task force (see Attachment B: Domestic Violence Practice and Procedure Annual Agenda, Project 6);
2. Direct the Violence Against Women Education Project (VAWEP) Planning Committee, whose members are selected by the co-chairs of the Family and Juvenile Law Advisory Committee, to be responsible for the remaining items on the task force's annual agenda that relate to technical assistance, education, bench tools, publications, distance learning, and the California Courts Protective Order Registry (CCPOR) (see Attachment B, Projects 3-5 and 7-10); and
3. Direct the Family and Juvenile Law Advisory Committee in conjunction with VAWEP and in consultation with other advisory committees and groups, as needed, recommend a future process to address ongoing and emerging issues on court practice and procedure in criminal and civil domestic violence cases. (see Attachment B, Project 2).

Previous Council Action

Effective April 25, 2013, the Judicial Council, in an effort to improve governance, structure, and organization of its advisory groups, directed the task force to complete as many of its projects as possible by September 1, 2013; directed the task force chair to submit a report by August 1, 2013, for consideration at the council's August meeting; and indicated that unfinished projects should be merged with the work of VAWEP. (See Attachment A for VAWEP's fact sheet and annual report.)

The task force was appointed by former Chief Justice Ronald M. George in September 2005 in response to a report to the Attorney General by the Task Force on Local Criminal Justice Response to Domestic Violence, which was sharply critical of court practice in certain key areas of criminal procedure and restraining and protective orders.¹ Chief Justice George charged the task force to:

- Submit recommendations to the Judicial Council or its advisory committees for changes in the practice, procedure, or administration of cases involving domestic violence allegations;
- Review practice and procedure and make recommendations that ensure the fair, expeditious, and accessible administration of justice for litigants in domestic violence cases; and

¹ *Keeping the Promise: Victim Safety and Batterer Accountability*, Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence (June 2005).

- Review the recommendations contained in the Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence (June 2005) and ensure the implementation of recommendations relating to the courts, as the Judicial Council deems appropriate.

After conducting a series of fact-finding efforts, described in more detail in Attachment C to this report, the task force submitted its report and recommendations to the Judicial Council in February 2008. The report to the council was received and accepted, and the task force was instructed to implement its recommendations in the following charge:

- Implement as appropriate the guidelines and the practices in the Final Report of the Domestic Violence Practice and Procedure Task Force accepted by the Judicial Council on February 22, 2008 (see final report at Attachment D);
- Select and refer guidelines and practices, as appropriate, to Judicial Council internal committees, advisory committees, AOC divisions, or other entities for implementation, including preparation of suggested legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes;
- Collaborate with the Center for Judicial Education and Research Governing Committee to propose revision of the rules relating to minimum judicial educational requirements to address issues of domestic violence;
- Study the need for additional resources that local courts may require to implement the proposed guidelines and practices; and
- Periodically report progress of implementation efforts to the Judicial Council.

(For a summary of the task force's implementation efforts in furtherance of its charge, see Attachment C.)

Implementation efforts

In carrying out its implementation activities, the task force worked with other Judicial Council advisory groups and various staff entities of the Administrative Office of the Courts. The task force submitted status reports to the Judicial Council on October 23, 2009, and July 20, 2010, and the task force report was cited in appellate cases and by other entities.

Educational programs

The 139 task force guidelines and practices were incorporated into a wide array of educational programs and workshops in collaboration with the Center for Judiciary Education and Research (CJER) and with the participation of the VAWEP committee. The educational workshops and programs were fully funded by the federal grant administered by the VAWEP committee. During the implementation phase, a total of 191 programs or workshops were conducted. Of these, 21 related to criminal law, 55 concerned family law, 13 addressed juvenile law, 7 were in probate law, and 25 were interdisciplinary. The programming also involved 3 classes for assigned judges, 23 workshops at conferences, 2 distance learning projects, 34 local court trainings, and 8 specialized informational meetings. The number of programs and workshops conducted during this period represents an increase since 2005 due to the continued availability of grant funding. The programming, in addition, meets the legal mandate of Government Code section 68555, which requires the Judicial Council to establish judicial training programs in domestic violence,

and the requirements of California Rules of Court, rule 10.464 concerning judicial education about domestic violence.

Publications and bench tools

With the collaboration and assistance of CJER and under the auspices of VAWEP, task force recommendations were integrated into ten judicial benchbooks and tools. Two benchbooks, one on issues relating to restraining and protective orders and one on domestic violence and dependency, have been completed and consistently updated. A benchbook on elder abuse is in development. Various bench cards and a judicial newsletter have been distributed and posted online.

Rules of court

The task force submitted a joint proposal with CJER that required judicial education on domestic violence as part of the regular educational requirements and expectations for those in key assignments who frequently hear cases involving domestic violence cases. The proposal was adopted by the Judicial Council as California Rules of Court, rule 10.464, effective January 1, 2010.

The task force also proposed, and the council adopted, a rule of court concerning firearm relinquishment in criminal cases. See California Rules of Court, rule 4.700, effective July 1, 2010.

Form changes

The task force activities included two key suggested revisions to domestic violence forms that were recommended to the Family and Juvenile Law Advisory Committee and ultimately adopted by the council. One such revision concerned changes to the *Emergency Protective Order* form (EPO-001) that required a law enforcement officer at the scene of a domestic violence incident to delineate whether a firearm was observed, reported, searched for, or seized. The second change concerned the *Notice of Court Hearing (Domestic Violence Prevention)* (DV-109) and the *Temporary Restraining Order* (DV-110), which were revised in response to a task force guideline recommending that a hearing should be conducted whenever a jurisdictionally adequate application for a temporary restraining order under the Domestic Violence Prevention Act is submitted. In *Nakamura v. Parker* (2007) 156 Cal.App.4th 327, the court cited the task force guideline, and Family Code section 6320.5 was subsequently enacted codifying the holding in *Nakamura*. Revisions to the domestic violence forms were conducted consistent with comprehensive changes to forms for all areas of protective orders based on the need for more uniformity and efficiency. The comprehensive revisions were submitted by the Family and Juvenile Law Advisory Committee and its Protective Order Working Group.

California Courts Protective Order Registry (CCPOR) Project

After a comprehensive symposium on the entry of restraining and protective orders into the California Protective and Restraining Order System (CARPOS)², the task force urged the Administrative Office of the Courts to launch a statewide database of restraining and protective orders so that courts could view the full text of these orders not only within different departments

² Formerly the Domestic Violence Restraining Order System (DVROS) housed within the California Law Enforcement Telecommunications System (CLETS).

of the same court but also in different courts throughout the state. The database, initiated by the AOC's Information Technology Services Office, has been substantially grant-funded. To date, 30 courts and 8 tribal courts have implemented the database known as the California Courts Protective Order Registry (CCPOR). (See Attachment E for a CCPOR fact sheet and deployment map.)

Appellate and other citations

The task force report and its recommendations have assisted in the adjudication of two appellate cases. First, in *Gonzalez v. Munoz* (2007) 156 Cal.App.4th 413, the appellate court recognized the importance of the task force in "ensuring fair, expeditious, and accessible justice for litigants in these critical cases." And again, in *Nakamura*, see above, the appellate court cited one of the primary guidelines contained in the task force's 2008 report relating to restraining orders.

The task force report has also been used in local jurisdictions to improve practice and procedure in domestic violence cases. For example, the Justice and Courage Oversight Panel, a committee of the Commission on the Status of Women in San Francisco, conducted an audit of the system in 2006. In March 2007, the panel issued its report, "Safety for All: Identifying and Closing the Gaps in San Francisco's Domestic Violence Criminal Justice Response." The audit team recommended that the court develop a local domestic violence benchbook for new judges on the protocols and dynamics of domestic violence cases. San Francisco Superior Court Judge Mary Morgan (Ret.) and current San Francisco Superior Court Presiding Judge Cynthia Lee developed this benchbook and distributed it to bench officers in 2009. In conjunction with this document, the court also uses the 2008 task force report.

Rationale for Recommendation

Firearms relinquishment

As part of its ongoing implementation efforts, the task force presented a proposed rule relating to firearms relinquishment in family law matters to the Rules and Projects Committee (RUPRO). In response, committee chair, Justice Harry E. Hull, requested the task force to attempt to achieve consensus among its members and the members of the Family and Juvenile Law Advisory Committee. The members of the task force and the advisory committee have achieved consensus on a proposed rule that will be submitted to RUPRO to consider whether the proposal should be circulated for statewide comment. The task force will conclude its business on September 1, 2013. Accordingly, the task force recommends that the advisory committee be directed to continue to handle the proposal after that date.

Remaining projects on annual agenda

In their report to the Judicial Council, the chairs of the Executive and Planning Committee, Rules and Projects Committee, and Technology Committee indicated that the uncompleted items contained on the task force's annual agenda should be merged with the projects currently being handled by VAWEF.³ Accordingly, that is the task force recommendation.

³ VAWEF is a planning committee whose members are selected by the co-chair of the Family and Juvenile Law Advisory Committee. The committee was convened to comply with grant requirements and consists of members suggested by the funder, members who also serve on the advisory committee, and others with expertise in domestic violence arising in different case types.

Future process to address domestic violence

Domestic violence is serious court business arising in a multiplicity of case types. Domestic violence cases result in significant costs to the courts and to the public, costs that increase exponentially when the early stages of the violence are not properly identified nor adjudicated. Scarcity of resources may mean that interventions required by law are not sufficiently available in all locations. Solutions to gaps in court practice and procedure are systemic because the problems are systemic. Task force members have identified the need for low- or no-cost, ongoing, creative, and sustainable solutions. The solutions must be cooperative and collaborative requiring the continued involvement of relevant justice system entities to contribute suggestions and formulate ideas to ensure that safety is primary, accountability is imposed, and the rights of the parties are respected and enforced. Courts should appropriately allocate resources to domestic violence cases and guarantee the delivery of fair and accessible justice by an educated and knowledgeable judiciary.

The former Chief Justice appointed the task force in recognition of this need and in response to significant criticism contained in a report submitted to the California Attorney General. The report was critical of all justice system entities. The Legislature also conducted a comprehensive audit of judicial education requested by then Assembly Member Rebecca Cohn. The audit contained a special focus on the sufficiency of judicial education related to domestic violence. The audit results demonstrated substantial accomplishments in this area.⁴ The task force members believe that the complexity and interdisciplinary nature of domestic violence requires a group devoted to the topic as its top priority that will continue to work collaboratively with advisory committees and groups to truly ensure the “fair, expeditious, and accessible justice for litigants” in domestic violence cases. The task force members also note that the interdisciplinary nature of domestic violence and its presence in a wide variety of case types, such as criminal, family, juvenile, and probate, would support an ongoing entity to make recommendations to the Judicial Council for improving practice and procedure in this area in collaboration with other council committees and groups.

The task force is mindful of the need for streamlining and consolidating advisory groups in this time of scarce resources, but the members believe that further analysis should be conducted to address future needs. Accordingly, the task force recommends that the Judicial Council direct that the Family and Juvenile Law Advisory Committee in conjunction with VAWEF and in collaboration with other advisory committees and groups submit recommendations to the council for the best way to assist the council in addressing statewide domestic violence issues on an ongoing basis.

Comments, Alternatives Considered, and Policy Implications

The Judicial Council’s Executive and Planning and Rules and Projects Committees considered various alternatives as part of a comprehensive review of the governance, structure, and organization of the council’s advisory groups, and the committees’ recommendations were

⁴ California State Auditor, Bureau of State Audit Reports, Judicial Council of California: Its Governing Committee on Education Has Recently Proposed Minimum Education Requirements for Judicial Officers (August 2006).

approved by the council. The task force recommendations are consistent with the council's directives and recognize the need for consideration after further research and analysis.

Implementation Requirements, Costs, and Operational Impacts

No costs to the judicial branch will be incurred by adoption of these recommendations. The Family and Juvenile Law Advisory Committee has already undertaken consideration of the firearms relinquishment proposal and will submit it to the Rules and Projects Committee in the normal course of considering proposals for changes to rules and forms. VAWEP is a grant-funded entity charged with developing and evaluating judicial branch education and providing technical assistance in the areas of domestic violence, sexual assault, elder abuse, teen dating violence, stalking, and human trafficking in state and tribal courts. Its activities, if approved by the funder, will be fully reimbursed from federal dollars granted to the Judicial Council.

Relevant Strategic Plan Goals and Operational Plan Objectives

The projects contained in the task force annual agenda and these recommendations further the Judicial Council's strategic plan goals and operational plan objectives as described below.

The projects relating to firearm relinquishment and CCPOR (Projects 6, 10) are consistent with Judicial Council strategic Goal III (Modernization of Management and Administration) and objectives under that goal, objective 4 (Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide) and 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).

The task force projects regarding a new role for the VAWEP planning committee (Projects 1, 2) relate to Goal IV (Quality of Justice and Service to the Public) and two objectives under that goal: objective 1 (Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes) and objective 3 (Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to educate court stakeholders and the public).

Finally, task force projects relating to education and technical assistance (Projects 3-5 and 7-9) are in furtherance of Goal V (Education for Branchwide Professional Excellence) and objective 1 under that goal (Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff).

Attachments

1. Attachment A: VAWEP Fact Sheet and Annual Report
2. Attachment B: Annual Agenda, Domestic Violence Practice and Procedure Task Force

3. Attachment C: Domestic Violence Practice and Procedure Task Force Chronology and Projects, 2005–2013
4. Attachment D: 2008 Report of the Domestic Violence Practice and Procedure Task Force California Court (with endnotes updated to reflect changes to statutes and rules)
5. Attachment E: California Courts Protective Order Registry Fact Sheet and Deployment Map



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FACT SHEET

May 2013

Violence Against Women Education Project

Domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse are critical issues facing family, criminal, and juvenile courts in California. The Violence Against Women Education Project (VAWEP) is an initiative designed to provide tribal and state courts with information, equipment, technical assistance, educational materials, and programs on the role of the courts in responding to cases involving these issues. VAWEP is a project of the Center for Families, Children & the Courts (CFCC) of the Judicial and Court Operations Service Division, Administrative Office of the Courts the administrative agency for the Judicial Council of California. The project is being implemented in collaboration with the Office of Education/Center for Judicial Education and Research (CJER) and is funded by the California Emergency Management Agency (Cal EMA) with resources from the federal Office on Violence Against Women (OVW). The project's planning committee, composed of a tribal court judge, who also serves as a liaison to the California Tribal Court/State Court Forum, and state judicial officers, prosecutors, defense attorneys, attorneys with expertise in the field of domestic violence, victim advocates, and other experts, guides the project staff in identifying key areas of focus and developing appropriate educational programming. The statewide domestic violence needs assessment, conducted as part of the Native American Communities Justice Project, also informs the work of VAWEP.

Support for this publication was provided by the California Emergency Management Agency (Cal EMA) through Grant Award Number CW12111535, awarded to the Administrative Office of the Courts. Points of view in this document are those of the author and do not necessarily represent the official position or policies of Cal EMA.

Project Goals

The goals of VAWEP are to:

- Identify primary educational and informational needs of the courts on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues;
- Initiate new judicial branch educational programming pertaining to domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues, including the delivery of regional training events and the enhancement of existing programming;

- Develop distance learning opportunities for judicial officers and court staff relating to court procedure and policy in the areas of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse;
- Develop and compile useful information for the courts on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues that relates specifically to California law;
- Institutionalize inclusion of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues in all relevant judicial branch education curricula, programs, and publications;
- Create incentives to increase attendance and participation in judicial branch education relating to domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues;
- Increase communication among courts about best practices in domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse cases;
- Provide jurisdiction-specific technical assistance on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues of greatest importance to local courts;
- Create educational tools that aid in the administration of justice for self-represented litigants in domestic violence cases;
- Purchase computer or audio visual equipment for court-specific domestic violence-related projects; and
- Support efforts to enhance access to and improve the administration of justice for Native American victims of domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse.

Judicial Education on Domestic Violence

Effective January 1, 2010, the Judicial Council adopted rule 10.464 of the California Rules of Courts to provide for education on domestic violence for judges, commissioners, and referees. The rule:

- Requires participation in appropriate education on domestic violence issues by each judicial officer who hears matters in criminal, family, juvenile delinquency, juvenile dependency, or probate court, and in addition, for those with primary assignments in these areas, participation in periodic updates; and
- Requires inclusion of domestic violence issues in courses at the Judicial College and in primary assignment courses for both new and experienced judicial officers.

The VAWEP project provides live statewide programs, local programs, and distance-learning opportunities so that judges, commissioners, and referees have diverse ways to fulfill the requirement of the rule.

The forum makes recommendations to the project's planning committee about content on federal Indian law and its impact on state courts. To promote the collaboration between the project's planning committee and the forum, a tribal judge, who is a forum member, serves as liaison between the two groups.

Educational Events and Technical Assistance

Judicial Institutes (November 2012 and April 2013)

VAWEP courses are included as part of the Juvenile Law Institute in November 2012, the Family Law Institute in May 2013, and the Cow County Judges Institute in June 2013. In conjunction with the Family Law Institute, a Statewide Family Dispute Resolution Conference is also held to allow family law judicial officer and family court services mediators and evaluators to attend joint sessions. These institute trainings and educational events provide information specific to target audiences.

Juvenile Law Institute, November 2012

The Juvenile Law Institute is designed to meet the needs of judicial officers new to a juvenile law assignment, and those with greater experience. A description of the workshop follows:

Domestic Minor Sex Trafficking of Dependent/Delinquent Youth

Faculty will focus on the unique features of commercially sexually exploited children (CSEC) who may appear in both dependency and delinquency

proceedings and highlight characteristics of victims, perpetrators, dynamics, and risk factors. The workshop will also address broad goals of services and treatment for exploited children and the increasing need for court leadership in this critical area.

Family Law Institute/Family Dispute Resolution (FDR) Statewide, May 2013

The Family Law Institute is held in conjunction with the Family Dispute Resolution Statewide Conference (FDR) to provide an opportunity for judicial officers and family court services mediators and evaluators to jointly attend courses. A series of workshops for this audience will be presented at the institute.

Cow County Judges Institute, June 2013

The Cow County Judges Institute provides an opportunity to present courses to rural judges in an environment that allows for discussion of substantive and procedural law and their unique features in a rural setting.

Primary Assignment Orientation Courses, Criminal Assignment Courses, and other Related Events

VAWEP develops, staffs, and sponsors a series of in-depth courses on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues that are integrated into these showcase programs of CJER.

Primary Assignment Orientation Courses

CJER offers week-long programs in family law, juvenile law, criminal law, and probate designed for judicial officers new to the relevant assignment. The Primary Assignment Orientation courses are designed to satisfy the content-based requirements of rule 10.462(c)(1)(B) of the California Rules of Court applicable to new judges and subordinate judicial officers. The courses also satisfy the expectations and requirements of Rule 10.462(c)(4) applicable to experienced judges and subordinate judicial officers new to, or returning to, an assignment. The VAWEP project has developed components on domestic violence issues for each of these programs. Generally the Family Law Primary Assignment Orientation includes components on the effects of domestic violence on children and an overview of domestic violence law. The Criminal Law Primary Assignment Orientation includes a segment on criminal procedure in domestic violence cases. The Juvenile Law Primary Assignment Orientation includes a course on the effects of domestic violence on children in dependency and delinquency proceedings. The Probate Law Primary Assignment

Orientation offers a segment on civil protective orders for elderly and dependent adults. The following orientation courses are offered during the grant cycle:

February 2013 Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
Probate Law Primary Assignment Orientation
Juvenile Law Primary Assignment Orientation (Delinquency)
San Francisco

June 2013 Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
San Francisco

September 2013 Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
Juvenile Dependency Primary Assignment Orientation
Probate Law Primary Assignment Orientation

Continuing Judicial Education: Criminal Assignment Courses

CJER develops and implements programming designed to satisfy the content-based expectations of California Rules of Court, rule 10.462(c)(4) for experienced judges returning to a criminal assignment and to others seeking hours-based continuing education under rule 10.452(d). The following course will be offered during the grant cycle:

April 2013 Handling Sexual Assault Cases
San Francisco

Ethics and Self-Represented Litigants in Domestic Violence Cases (January 2013)

This 1.5-day course focuses on general judicial ethics issues that arise in domestic violence cases such as disqualification, disclosure, ex parte communication, community outreach, interjurisdictional issues relating to recognition and enforcement of tribal protective orders, as well as application of the canons of ethics in the context of the increasing numbers of self-represented litigants in domestic violence cases. The course provides an opportunity to demonstrate and practice demeanor and communications skills during a videotaping and feedback session. A workshop on the nuts and bolts of California law relating to restraining and protective orders precedes the course.

Human Trafficking: Issues for Criminal and Juvenile Law Judges (February 2013)

The project will offer a course focusing on how trafficking victims appear in juvenile and criminal courts as dependents, delinquents, defendants, and witnesses. The course will explore how people become victims of commercial sexual exploitation, and the unique dynamics, characteristics, and risk factors of this population. It will also address the legal definitions of human trafficking, and the many cross-over issues that must be grappled with when they appear before criminal or juvenile court judges.

Assigned Judges Criminal Sentencing (February, 2013)

At the request of presiding judges and justices of the trial and appellate courts, the Chief Justice issues temporary judicial assignment orders to active or retired judges to cover vacancies, illnesses, disqualifications, and calendar congestion in the courts. Various training programs are held through-out the year training judges participating in the Assigned Judges Program. The upcoming training will include an overview of unique probation and sentencing considerations in domestic violence cases including the mandatory provisions of Penal Code section 1203.097, the law regarding issuance of criminal protective orders, and firearms restrictions and relinquishment procedures.

Handling Elder Abuse Issues (June 2013)

Elder abuse cases can arise in virtually any department of the superior court. This 2.5-day course, developed in partnership with CJER, helps the judicial officer become familiar with elder abuse in its various court settings and highlights the relevant underlying law and procedure. The course helps participants gain an awareness and understanding of the dynamics of elder abuse cases, the needs of the victim and appropriate accommodations, and myths and misconceptions about elder abuse victims and offenders.

Forum on Dependency and Domestic Violence (July/August 2013)

Dependency proceedings involving children of domestic violence victims can be problematic, and there appears to be variable practices that govern when these children are adjudicated as dependents and under what circumstances. These variable standards may adversely impact domestic violence victims who fear reporting incidents of domestic violence if they risk initiation of dependency proceedings by Child Protective Services. The project will convene an invitational forum to discuss emerging best practices in this area. A report from the forum will be drafted and distributed online via the password protected judicial website.

Domestic Violence Awareness, Judicial College (August 2013)

A course on issues of domestic violence is part of the nationally recognized B. E. Witkin Judicial College of California, a program providing comprehensive education for all new superior court judges, commissioners, and referees. The course provides background information on domestic violence and is mandatory for all program participants. A description of the course follows:

Domestic Violence Awareness. This course provides a general understanding not only of the “nuts and bolts” of domestic violence laws, but also of the dynamics of domestic violence. The course emphasizes laws uniquely applicable in domestic violence trials; the mechanics of issuing, modifying, and terminating criminal and civil restraining orders; and practical problems that arise in sentencing in domestic violence cases.

Domestic Violence Safety Partnership Program (Ongoing in 2012-2013)

Under the auspices of the Domestic Violence Safety Partnership (DVSP) project, VAWEP provides targeted, local technical assistance to applicant courts that have an identified need for training. DVSP distributes a self-assessment tool that enumerates required procedures and recommended practices and provides training and technical assistance based on the issues identified. In the past, VAWEP has received many requests from courts about specific information needs, which can range from understanding warning signs for lethality in domestic violence cases to improving communication between the many types of courts that may be involved in a particular case. To date, DVSP has provided to trial courts more than 84 instances of technical assistance or local educational support.

The project provides experts whose specialties vary based on the need of the specific court. This assistance is accomplished by delivering a substantive expert to speak to the issues at hand, providing speakers at AOC trainings with expertise in issues related to violence against women, or facilitating a peer-mentoring meeting in which courts come together to learn about individual best practices. Recipients of this assistance are asked to evaluate what they have received. Assistance can also include purchasing audio visual and technological equipment on the court’s behalf that the court may use to enhance the administration of justice in domestic violence and related cases.

Collaboration with the AOC’s Education Division on Local Training and Distance Learning

The project continues to join with the Office of Education/CJER to offer local judicial education on domestic violence, sexual assault, stalking, teen dating violence,

human trafficking, and elder abuse. In 2010, the Office of Education/CJER launched a new initiative to enhance the ability of local courts to provide high-quality judicial education for bench officers. Courts can locally host judicial education classes simply by selecting the course from the course catalog. The courses range in duration from 1.5 to 3 hours. Local education minimizes time away from the bench and eliminates most travel expenses. The catalog currently contains twenty-two domestic violence related courses, including the following titles:

- Handling Elder Abuse Issues
- Restraining Orders in Elder Abuse Cases
- Adjudication of Stalking Cases
- Stalking in Cyberspace: What a Judge Needs to Know
- Batterer Intervention Programs: What We Know and What We Need to Know
- Beyond the Basics: An Overview of Domestic Violence Cases and Protective Orders
- Domestic Violence and Ethics
- Domestic Violence and Fairness Issues
- Evaluating the Effects of Domestic Violence on Children
- Immigration Issues in Criminal Domestic Violence Cases
- Restraining Orders in Multiple Court Settings
- Assessing Dangerousness in Criminal Domestic Violence Cases
- Domestic Violence and Custody—Assessing the Risk
- Domestic Violence Issues in Family Law Cases
- Domestic Violence Issues in Juvenile Cases
- Ethics and Self-Represented Litigants in Domestic Violence Cases
- Handling Sexual Assault Cases
- Reasonable Efforts in Dependency Cases Involving Domestic Violence
- Science of Aging
- Stalking Cases and Court Security

An additional course titled Domestic Violence and Tribal Communities-/Cross Jurisdictional Issues is under development for the current grant year.

Develop and Deliver Distance Learning Opportunities (Ongoing in 2012-2013)

The project will deliver at least two instances of distance learning training, using web-based, DVD, broadcast, or other distance learning delivery methods including judicial tool kits and check lists using content from either prior live trainings or newly created content. One distance learning activity will focus on handling sexual assault cases for criminal law judges.

Curriculum Development and Publications

VAWEP distributes the following curricula, publications, and other resource materials:

***New* -Judges Guide on Handling Elder Abuse Cases (Ongoing in 2012-2013)**

The project plans to publish and post on-line three modules of a stand-alone bench guide for judges on elder abuse cases, based on an outline completed during the last grant year. The modules will explain the legal issues related to elder abuse and will help judicial officers make effective and appropriate orders and decisions in these cases. The bench guide will prove especially helpful because the law in this area is particularly complex and judicial officers have noted a need for more information in this area.

Domestic Violence Website Map

The Administrative Office of the Courts maintains a password protected Web site for judicial officers and court professionals. Materials about domestic violence and related topics are posted in many different components of the site. The project is developing a site map on violence-related topics which will serve as a portal and index for the users. The map, organized by case type, can be posted on a user's desktop and provide a quick reference for the busy jurist or court manager.

Annual Report and Fact Sheet

Project staff develops an updated annual report and this fact sheet to highlight key efforts the project has undertaken as well as judicial and court responses to those efforts. These documents are distributed to provide project information to judicial branch professionals and the public. As educational tools, they focus on suggested practices and innovative approaches.

Tribal/State Activities

In response to the Tribal Court/State Court Forum's (forum) recommendations to the AOC to revise judicial benchguides and incorporate into judicial educational programming information regarding Federal Indian law and the interjurisdictional issues that face tribal and state courts, the AOC, with grant funding develops curriculum, provides education, and offers technical assistance to local courts on Federal Indian law as it applies to domestic violence cases.

Cross-court Educational Exchanges for State and Tribal Judges (Ongoing in 2012-2013)

The project plans to continue the dialogue started as part of the Native American Communities Justice Project (NACJP) by conducting three cross-court educational exchanges. The exchanges will be judicially led by the host judges (one tribal court judge and one state court judge) and will take place on tribal lands. At the exchanges, judges will utilize a checklist of problems and solutions identified by the NACJP participants to discuss local court concerns relating to domestic violence and/or elder abuse that they can solve together.

Integrate Federal Indian Law on Domestic Violence Into Existing Judicial Educational (Ongoing in 2012-2013)

The project will develop course content on federal Indian law and domestic violence and incorporate the new content into two courses: (1) Ethics and Self Represented Litigants in Domestic Violence Cases and (2) Domestic Violence Institute for 2014. The project will review all relevant CJER courses and recommend that the new course content be incorporated into at least two identified courses.

Retool Existing Curriculum and Materials relating to P.L. 280 and Family Violence (Ongoing in 2012 2013)

The project plans to review the judicial educational resources in the existing toolkits maintained by CJER and identify new resources on federal Indian law and domestic violence that can be assembled into a toolkit for judges and posted as part of the domestic violence website map.

Further Information

For additional information about VAWEP activities, please contact:

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Violence Against Women Education Project

ANNUAL REPORT

October 1, 2011-September 30, 2012



**ADMINISTRATIVE OFFICE
OF THE COURTS**

CENTER FOR FAMILIES, CHILDREN
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Violence Against Women Education Project

ANNUAL REPORT October 1, 2011–September 30, 2012

**Judicial Council of California
Administrative Office of the Courts
January 2013**

ABOUT THIS PROJECT

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Project Mission

The mission of the Violence Against Women Education Project is to enhance the court's response to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking issues through the following activities:

- Identify primary educational and informational needs of the courts on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues;
- Initiate new judicial branch educational programming pertaining to domestic violence, sexual assault, stalking, teen dating violence, and elder abuse including the delivery of regional training events and enhancing existing programming;
- Develop online courses for judicial officers and court staff relating to court procedure and policy in the areas of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse;
- Develop and compile useful information for the courts on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues that relates specifically to California law;
- Institutionalize inclusion of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues in all relevant judicial branch education curricula, programs, and publications;
- Create incentives designed to increase attendance and participation in judicial branch education relating to domestic violence, sexual assault, stalking; teen dating violence, human trafficking, and elder abuse;
- Increase communication among courts about best practices in domestic violence, sexual assault, stalking, teen dating violence, and elder abuse cases;
- Provide jurisdiction-specific technical assistance on domestic violence, sexual assault, stalking, teen dating violence, elder abuse issues, and human trafficking issues of the greatest importance to local courts;
- Create educational tools that aid in the administration of justice for self-represented litigants in domestic violence cases;
- Purchase computer or audiovisual equipment for court-specific domestic violence–related projects; and
- Enhance access to and improve the administration of justice for Native American victims of domestic violence, sexual assault, stalking, teen dating violence, and elder abuse.

Education in Domestic Violence, Sexual Assault, Stalking, Teen Dating Violence, Elder Abuse Cases, and Human Trafficking: A Critical Need

Many of California’s state and tribal court judicial officers, whether they hear criminal cases, restraining order proceedings, juvenile dependency cases alleging violence, teen dating violence delinquency cases, or family law cases involving contested divorce and custody arrangements, are at some point likely to encounter issues related to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking. These types of cases differ from others in that they appear in a variety of court contexts and departments. Judges in any assignment or jurisdiction can benefit from a working knowledge of the unique issues that these cases pose, while judicial officers presiding over specialized courts (such as criminal domestic violence or Domestic Violence Prevention Act courts) need continuing, relevant, and advanced information and resources.

Other court professionals play a critical role in ensuring access to the courts for the parties in these cases. From the counter clerk who may be the first representative of the court system to assist a victim of domestic violence, to the bailiff or court attendant in the courtroom who performs crucial safety functions, to the document examiner who ensures that legal requirements are met—all work together to help administer these cases. Each court professional needs essential job-related information: an understanding of the law and procedure underlying these cases, knowledge about the dynamics of domestic violence, a grounding in the basic principles of public service and safety, and information about how to reduce the stress of functioning in this difficult area.

Thus, ongoing and pertinent education for judicial officers and other judicial branch professionals is critically important to the fair and efficient administration of justice in these unique cases. The Violence Against Women Education Project (VAWEP) is an initiative designed to meet this need. VAWEP is a project of the Administrative Office of the Courts (AOC), Center for Families, Children & the Courts (CFCC). VAWEP provides to the tribal and state courts information, educational materials, training, and technical assistance on the role of the courts in responding to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking cases in family, civil, criminal, and juvenile state and tribal courts in California. VAWEP also assists local courts in developing education, policy, and promising practices and provides for the purchase of computer or audio visual equipment to improve the handling of cases involving domestic violence. VAWEP continually assesses the greatest information and training needs of the courts and designs programs responsive to those needs.

FUNDING INFORMATION

This year marked the tenth year of the VAWEP initiative. The project is funded by the California Emergency Management Agency (Cal EMA) with resources from the federal Office on Violence Against Women (OVW) STOP (Services • Training • Officers • Prosecutors) grant program. (See the appendix, on page 26, for a description of the STOP purpose areas.)

Each state is required to allocate 5 percent of its annual STOP grant funding to support the courts in creating a more effective response to domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking cases. The project received \$541,336 in funding from OVW and Cal EMA that allowed the Administrative Office of the Courts to continue and enhance its efforts to educate and inform judicial officers and court staff about domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking issues, and to address the needs of Native American communities in the area of family violence.

Review of VAWEP Activities: October 1, 2012–September 30, 2013

In an effort to meet the project's goals and comply with the program purpose areas set forth by the Office on Violence Against Women, VAWEP staff and planning committee members undertook activities in three major areas: the delivery of educational events; the distribution of technical assistance to local trial courts and regions; and the development of teaching materials, resources, and publications. A brief summary of each of these activities is provided in the following pages.

EDUCATIONAL EVENTS

Since the project's inception in 2002, more than 18,092 attendees have participated in VAWEP-sponsored training events and forums. VAWEP participants are primarily judges, commissioners, referees, and court staff. Some programs also involve justice system professionals such as attorneys, mental health providers, law enforcement officers, and advocates. In an ongoing effort to respond to the needs of the Native American community, participants included tribal judges and Native American advocates, service providers, and community leaders. A description of the VAWEP educational events held during this grant year follows.

Beyond the Bench 2011 – Coming of Age in Tough Times: Building Our Strength Together (December 2011)

The Beyond the Bench Conference celebrated its 21st year, and more than 1300 participants attended. The conference provided a forum for multi-disciplinary dialogue about improving outcomes for children and families. The program has grown over the years to provide courses that address a myriad of family issues, and has branched out to include family courts, collaborative courts, and case types, including family violence, self represented litigants, mental health, substance abuse, supervised visitation, gangs, and collaborative justice. Twelve domestic violence-related courses were offered as follows:

Family Law Domestic Violence: New Forms, Rules and Cases

Panelists for this workshop highlighted major changes to forms and rules, new legislation, and key new cases. New forms and rules related to domestic violence restraining orders, effective January 1, 2012, included a new form and rule for parties to stipulate to parentage. Restraining order forms issued in juvenile, civil harassment, elder abuse and other case types were also revised. The workshop was attended by 56 participants.

The Importance of Domestic Violence Coordinating Councils

In today's environment of limited resources, developing and maintaining lines of communication among members of the community, community-based services, advocates, justice system entities, and the courts is crucial to fostering victim safety, perpetrator accountability, and child well-being when domestic violence is a factor. This workshop focused on how to set up a viable domestic violence council, delineated the advantages and some of the pitfalls, and provided concrete examples of the benefits of flourishing domestic violence councils to large and small communities. It also emphasized the vital role of the court in sustaining a successful council. The workshop was attended by 23 participants.

Lesbian, Gay, Bisexual, and Transgender (LGBT) Domestic Violence: What You Need to Know

Domestic violence among same-sex couples is just as prevalent as among opposite-sex couples, but unique dynamics have resulted in invisibility and the potential for further victimization by the legal process. This workshop examined domestic violence in the LGBT community and included an overview of demographic information, terminology, and specific domestic violence information. Faculty used a scenario to examine batterers' tactics from an LGBT framework and discussed challenges the court system may face when presented with cases of LGBT domestic violence. The workshop was attended by 55 participants.

Human Trafficking: An Overview and Special Focus on Commercially Sexually Exploited Children (CSEC)

This workshop provided a brief overview of the legal and social science definitions of human trafficking and where it might arise in a court setting. Faculty focused on the unique features of commercially sexually exploited children (CSEC) and highlighted characteristics of victims, perpetrators, dynamics, and risk factors. The workshop also addressed broad goals of services and treatment for exploited children and the increasing need for court leadership in this critical area. The workshop was attended by 107 participants.

System Change to Address Children's Exposure to Violence

This workshop showcased the latest policy recommendations for multiple systems, intersecting with dependency courts that engage with children exposed to domestic violence to help them heal and remain or reunite with their families. Drawing on the research and recommendations of the California Leadership Group on Domestic Violence and Child Wellbeing, the panel highlighted practical activities within and across systems and communities that significantly aid in this process. Panelists also offered prevention and early intervention approaches. The workshop was attended by 34 participants.

Family Law Settlement Services: Developing Protocols for Domestic Violence Cases

Many family law cases benefit from the opportunity to use settlement services to craft resolutions addressing property and financial matters. Given the number of family law cases involving domestic violence allegations, restraining orders, or unreported fear of abuse or retaliation, how can settlement service providers most effectively ensure that programs take safety into account? This workshop provided participants with examples of protocols and procedures for handling this issue in non-child custody programs and discussed why it is important to consider domestic violence when providing settlement services. The workshop was attended by 34 participants.

Recognition and Enforcement of Tribal Protective Orders

Providing for the justice needs of tribal communities is a challenge. One way that tribes seek to meet this challenge is by developing their own court systems. Today there are over twenty tribal courts operating in California. A priority for many of these courts is the development of tribal domestic violence codes to ensure the safety of their citizens. In this workshop, tribal and state court judges discussed jurisdiction on tribal lands and in tribal court, federal and state law concerning enforcement and recognition of tribal court protective orders, existing procedures for the mutual recognition and enforcement of protective orders, and proposed changes to the California Rules of Court to ensure entry of tribal protective orders in the California Law Enforcement Telecommunications System (CLETS). The workshop was attended by 26 participants.

New Developments in the Intersection of Housing, Domestic Violence, and Family Law

This workshop discussed family law and housing law strategies that can be used to address some of the most common housing issues domestic violence survivors encounter. It showcased a variety of tools to protect survivors' housing rights, eviction defense, early lease termination, and lock changes for survivors. The workshop also reviewed the Violence Against Women Act, fair housing laws, Domestic Violence Prevention Act, family law, civil code, and collaborative community support. The workshop was attended by 24 participants.

Working with Domestic Violence Survivors Aged 25 and Under

This session provided information on working with domestic and dating violence survivors aged 25 and under. Current brain research confirms what youth advocates have been saying for years – our brains are not fully developed when we turn 18. So what can attorneys who work with clients aged 18-25 learn from youth advocates? Participants were provided with developmentally appropriate tips for working with these clients. The workshop also reviewed available legal rights and remedies for domestic and dating violence survivors who are still legally minors. The workshop was attended by 26 participants.

Representing Same-Sex Couples in Dissolution and Domestic Violence Proceedings

This interactive workshop followed the full process of representing a survivor of intimate partner violence in the dissolution of his or her domestic partnership or marriage, from intake and an initial restraining order to a judgment of dissolution. The case study involved many issues that can arise in these cases, including determinations of parentage, preservation of eligibility for public housing and other benefits, and federal tax implications of property division and support. The workshop was attended by 26 participants.

Legal Update: New Rules and Forms for Family Law and Domestic Violence

This lunchtime plenary session focused on legislative changes, revisions to rules and forms effective January 1, 2012, and case law in 2011 relating to family law and domestic violence. The plenary session was attended by 70 participants.

Effective Responses to Abusers Using Legal Systems Against Victims of Domestic Violence

This workshop considered how legal professionals can improve their ability to respond to tactics abusers employ within the legal system to perpetuate abuse against victims of domestic violence. The panel presented a variety of methods being used against victims, such as filing baseless restraining order requests and ex parte requests alleging kidnapping, calling the police on the victim, filing non-stop custody requests, and attempting to prejudice the judge by claiming that the victim is only seeking a restraining order for immigration purposes. The workshop was attended by 30 participants.

Continuing Judicial Education: Primary Assignment Orientation Program and Criminal Assignment Courses (January, March, June, and September 2012)

This section includes courses held within the Primary Assignment Orientation programs and a series of courses held within the Criminal Assignment Courses program. The Primary Assignment Orientations are week-long programs offered to new or newly assigned judicial officers and include courses in family law, criminal law, juvenile dependency, juvenile delinquency and probate. A series of eleven domestic-violence related courses were held as part of the Primary Assignment Orientations. The Criminal Assignment Courses are often held in conjunction with the Primary Assignment Orientations but are typically one-to-three days in duration and focus specifically on criminal issues.

Family Law Primary Assignment Orientation Programs (January, June, and September 2012)

Each week-long Family Law Primary Assignments Orientation contained two components on domestic violence. These components were entitled *Domestic Violence Laws* and *The Effects of Domestic Violence on Children*. Thirty-six judicial officers attended the January program, ten judicial officers attended the June program, and fifteen attended the September program. These components included topics that focused on the effects of domestic violence on children, outcomes for children exposed to domestic violence, domestic violence law and custody issues. A sample of the comments received from these programs follows.

[As a result of this program] I will pay attention to custody orders in domestic violence cases. I will be careful when crafting orders to avoid creating problems in carrying out the orders.

[The instructors were] very knowledgeable and the hypos helped with [the] learning experience.

[As a result of the program] I will let parties be heard at the initial application if perpetrator is present.

The lethality factors from Dr. Lund [were] very helpful.

[As a result of the course] I will spend more time with files before the hearing. Great instructors, very knowledgeable with great delivery.

This class has taught me to ask more questions, think of more possibilities in both assessing a situation and devising court orders.

[The most beneficial part of the course] was addressing the law and procedure along with the psychological aspects of domestic violence.

Criminal Law Primary Assignment Orientation Programs (January, June, and September 2012)

Each Criminal Law Primary Assignment Orientation program contained a segment that focused on issues unique to domestic violence cases in the criminal law area. Thirty-three participants attended the January program, eighteen participants attended the June program, and fifteen participants attended the September program. Sample comments follow:

I will incorporate the ideas and best practices presented.

[The program] was an excellent source of information.

[The program] gave good tools that help judges be more proactive in domestic violence cases. Also nice to have a male instructor on domestic violence

The presenter was excellent; highly knowledgeable; very effective at communication; well organized and had great demeanor.

An excellent overview with emphasis on key situations about which any judge should be aware; great hypotheticals.

Juvenile Delinquency Primary Assignment Orientation Program (January 2012)

A course entitled *The Impact of Domestic Violence in Juvenile Delinquency Proceedings* was offered at the Juvenile Delinquency Primary Assignment Orientation in January 2012. The program was attended by 25 judicial officers. A sample of comments follows.

The trauma chart was very helpful.

[As a result of the course] I will include in my disposition plans additional services for kids with domestic violence backgrounds.

Very helpful to have the neuro-physical aspect and how it effects our children.

Dr. Rowe's discussion on the latest findings in the literature as to the "how" and "why" of damage due to domestic violence was great.

Juvenile Dependency Primary Assignment Orientation Program (September 2012)

A course entitled *The Impact of Domestic Violence on Children* was held at the Juvenile Law Dependency Primary Assignment Orientation Program in September 2012. The dependency program was attended by 23 judicial officers. A sample of the comments follows.

[The] video was terrific. Judge Isackson is also great on this topic. She clearly has a good knowledge of this topic

[As a result of the course, I will] be more sensitive to the behavior of a child, not because it's his or her fault but how it's a universal development issue.

The video had lots of good information regarding the impact of domestic violence on children.

Probate Primary Assignment Orientation Program (January 2012)

A course entitled *Civil Protective Orders for Elderly and Dependent Adults* was offered at the Probate Primary Assignment Orientation Program in January 2012. The evaluations contained the following comments:

Learning the different options available under domestic violence protective orders versus elder protective orders [was very beneficial].

Great exercise – really brought the victims perspective and options into the discussions.

Very interesting program. Great instructor!

Criminal Assignment Courses

Handling Sexual Assault Cases (March 2012)

Sexual assault cases require the judge to be familiar with a unique body of substantive and procedural law that is not necessarily applicable in other criminal cases. The judge must also be aware of and understand the dynamics of sexual assault cases, the needs of the victim and specially mandated accommodations, and myths and misconceptions about sexual assault victims and offenders. This two-day course emphasized these key issues and guided the judge through managing a sexual assault trial from arraignment through sentencing and post-sentencing procedures. This course was attended by 15 participants. A sample of the comments received from the course follows.

Excellent survey of the law. Very practical approach [to the program] with good examples. Very engaging [and I] learned from the instructors and fellow judges. Excellent discussions.

[As a result of attending the program, I will] be more aware of pitfalls pointed out in the course.

Excellent presentation and excellent handouts/notebooks by Judge Couzens.

Selected Issues in Criminal Domestic Violence Cases: Criminal Procedure from Arraignment through Sentencing (June 2012)

This course provided a comprehensive overview of the law applicable in misdemeanor and felony domestic violence criminal cases. Working through a hypothetical case file, participants discussed, among other things, assessment of a defendant's future dangerousness (for use in setting bail and issuing protective orders); reluctant witnesses; unique jury selection issues that arise in these cases; and the mandatory probationary requirements in such cases. The goal of the course was to provide bench officers with tools to handle a criminal domestic violence case from the arraignment stage through supervision on probation. The course was attended by 18 participants. A sample of comments received from the course follows.

Enjoyed hearing different procedures in different counties, i.e., learned from my colleagues

The instructor was very thorough and thought provoking on rules of evidence.

Great instructors; best class I've attended in years! Instructors were well prepared.

One of the more informative and beneficial courses I have taken. The instructors did a great job.

Judicial Institutes (February and June 2012)

Judicial institutes target specific judicial audiences, either judges from rural areas or judges assigned to hear specific case types, such as family, juvenile, or criminal law. The project sponsored programs at the Criminal Law Institute in February and the Cow County Judges Institute in June.

Criminal Law Institute (February 2012)

In criminal domestic violence proceedings, protective orders are often issued pretrial, and issuance of a protective order is required at the time of sentencing for probation. A workshop entitled *CPO'S and Enhancing Victim Safety in the Criminal Courts* was offered at the Criminal Law Institute and focused on ways to craft effective protective orders that include all mandatory provisions, examined various issues about other related case types, and delineated recommended practices for reviewing requests for modifications. The workshop also highlighted firearms restrictions and relinquishment provisions now required by California Rules of Court, rule 4.700. The workshop was attended by 18 participants. A sample of comments received from the workshop follows.

[In the future, I will] be more aware of the need to issue restraining orders.

[As a result of the class] I will inquire further before issuing a criminal protective order.

The entire program was good – Relevant case law, information cards and suggestions and tips.

Cow County Judges Institute (June 2012)

A workshop entitled *Criminal Elder Abuse* and a plenary session entitled *Lethality and Dangerousness in Domestic Violence Cases* with a special focus on victims in tribal communities were offered during the Cow County Judges Institute. The Cow County Judges Institute is a unique opportunity to present courses to rural judges in an environment that allows for discussion of substantive and procedural law and their unique features in a rural setting.

Criminal Elder Abuse

This workshop covered criminal law selected issues in elder abuse cases, including behaviors that fall within Penal Code section 368 and domestic violence under Penal Code section 273.5. Faculty also focused on criminal protective orders, pre-trial release, evidentiary issues, victim protections, sentencing considerations, and probation review hearings in the context of elder abuse cases. Thirty-one participants attended the workshop and offered the following comment:

The instructors had very practical and actual experience in the subject matter so they were able to provide insightful suggestions to address the issue in elder abuse cases.

Lethality and Dangerousness in Domestic Violence Cases

In this plenary session, Dr. Jacquelyn C. Campbell, a nationally recognized expert on lethality and dangerousness in domestic violence cases, presented an overview of her extensive research. Dr. Campbell delineated a series of risk factors associated with lethality and dangerousness, and provided insights into the practical implications of these factors for judicial decision-making in domestic violence cases in both state and tribal courts.

Good information regarding the assessment tools and ideas regarding resources need to be focused especially after criminal realignment.

[The course provided] interesting information regarding tribal courts. I liked the assessment tool which I was aware of from Dr. Campbell's lecture.

Ethics and Self-Represented Litigants in Domestic Violence Cases (March 2012)

The course began with a half-day segment on the “nuts and bolts” of restraining and protective order proceedings. The remainder of the course focused on general judicial ethics issues that arise in domestic violence cases such as disqualification, disclosure, ex parte communication, and community outreach, as well as application of the ethical canons in the context of increased numbers of self-represented litigants in domestic violence cases. The course also provided an opportunity for participants to demonstrate and practice demeanor and communication skills during a taping and feedback session. Twenty judicial officers attended the course and offered the following representative comments:

Being with other judicial officers [was a benefit to attending this course]. I learned so much from just listening to them, their questions, and their comments. The faculty was very well prepared.

[I will] try to be understanding of self represented litigants' position in court.

[A helpful part of this course was being able to] talk through difficult situations and legal realities while obtaining feedback from classmates and instructors.

Domestic Violence Judicial Institute (May 2012)

This judicial education program is based on a national interdisciplinary curriculum developed by the National Council of Juvenile and Family Court Judges and Futures Without Violence. The three-day program included workshops on fact-finding, fairness, and cultural issues in domestic violence cases, decision-making skills and enforcement, victim behavior, and perpetrator behavior. The program also included

sessions designed to engage judicial officers in practical courtroom exercises addressing the complexity of domestic violence cases as well as specific issues facing California judicial officers. Fifty participants attended the program.

The project also offered a preinstitute workshop to address the “nuts and bolts” of California law in domestic violence cases. The preinstitute workshop provided participants with the basics of domestic violence cases, focusing on common errors, unique features, and “hot spots.” Issues arising in criminal domestic violence cases included emergency protective orders, pretrial release and bail, criminal protective orders issued both pretrial and as a mandatory condition of probation, sentencing, review hearings, and probation violations. Issues related to family law included statutory requirements for restraining orders, firearms issues, and cross-over issues such as avoiding conflicting orders. Sixty-five participants attended the preinstitute workshop.

The institute and preinstitute received excellent evaluations. The evaluations from both programs included the following comments from participants:

Judge Dugan’s knowledge in this area is excellent and her teaching style is fantastic. Overall—very engaging and helpful course.

[As a result of taking this course, in the future, I will] take more time to review the forms. I will have a hearing on the record when I have questions about the information on the forms.

I can't tell you how valuable the Domestic Violence Institute was for me. As a relatively new judge (17 months on the job) with a civil background, and a relatively new domestic violence assignment (criminal for four months), every session provided me with new, mind-expanding information and skills. Yes, it will make me a much more effective judge. But the Institute provides much, much more than that. It provides a perspective, a feeling of community among other judges, and an appreciation for the need to coordinate with the family and dependency courts are just a few of the outstanding aspects of the program.

A tribal court judge reported it was the best conference she ever attended, and as a result she obtained permission from the tribes that her court serves to volunteer on the VAWEF Planning Committee to assist with the development of curriculum relating to tribal/state court domestic violence issues for the next Domestic Violence Judicial Institute scheduled for 2014.

B. E. Witkin Judicial College of California (August 2012)

The B. E. Witkin Judicial College of California is a nationally recognized program providing comprehensive education to all new superior court judges, commissioners, and referees. Each participant is required to take a mandatory domestic violence course entitled *Domestic Violence Awareness*. The course provided information on the “nuts and bolts” of domestic violence laws and the dynamics of domestic violence. Faculty also focused on laws uniquely applicable in a domestic violence trial; mastery of the mechanics of issuing, modifying, and terminating criminal and civil restraining orders in domestic violence cases; practical problems that arise in domestic violence cases; and sentencing appropriately in criminal cases. All program participants attended this mandatory course, for a total of 55 participants. A selection of comments follows.

Great materials, including sample forms and checklists; very knowledgeable instructors; good coverage of topics.

I learned about some nuances I was not previously aware of.

I liked the tripartite format of juvenile, family law and criminal. It was very helpful to understand the interplay between the three case types.

DOMESTIC VIOLENCE SAFETY PARTNERSHIP (DVSP)

Technical assistance and local training are provided through the Domestic Violence Safety Partnership (DVSP) project (October 2011–September 2012). The DVSP project was developed to enhance safety and to improve practices and protocols in the handling of domestic violence cases by offering advice, hands-on technical assistance, a speakers’ bureau/peer mentoring program, and local education and training. The project also permits the procurement of computer and audiovisual equipment used in the handling of domestic violence cases. Trial courts participate in the program by completing the DVSP self-assessment tool. This tool consists of legal mandates and other safety considerations relating to domestic violence cases and, in particular, the handling of restraining orders. The assessment helps courts identify areas in which technical assistance or training may be most beneficial. Staff of the Administrative Office of the Courts (AOC) then provides educational opportunities or technical assistance at the court’s request. Although courts are strongly encouraged to complete the self-assessment tool, participation in this part of the program is voluntary and not a prerequisite for obtaining assistance under this program. Courts that do complete the tool are given priority. The courts that have completed the assessment have found it useful in identifying areas where training and technical assistance are needed.

The project provided 7 instances of assistance to the trial courts and AOC divisions or regional offices. A list of the programs provided under DVSP follows.

Superior Court of Inyo County

The project sponsored two speakers who presented at the Inyo County Domestic Violence Council Annual Symposium entitled *Working Together to End Abuse – Creating a Community of Hope* held in October 2011. This multi-disciplinary program was attended by 266 participants including law enforcement, educators, social workers, domestic violence treatment providers, representatives from the medical community, protective services workers, mental health professionals, prosecutors, public defenders, probation officers, childcare providers, victim advocates, representatives from the faith community, tribal administrators, tribal health care providers, court clerks, and judicial officers.

Superior Court of Santa Clara County

The project supported one nationally recognized domestic violence expert to serve as keynote speaker and lead a workshop for the Santa Clara County Domestic Violence Council's annual conference entitled *Engaging, Motivating, and Inspiring Men: The Crucial Next Step in Domestic Violence Prevention*. The conference was attended by 310 multi-disciplinary participants.

2012 Family Dispute Resolution Regional Trainings (5)

The project co-sponsored the domestic violence portion of five regional trainings for family court services professionals (mediators and evaluators) throughout the state. Regional trainings were held in San Francisco on March 23, 2012, Anaheim on April 26, 2012, Burbank on April 27, 2012 and Sacramento and Fresno on May 4, 2012. California Rules of Court, rules 5.215 and 5.230 (d) (1)-(2) require four hours of domestic violence training for family court services professionals. Domestic violence training topics included a *Family Law and Domestic Violence Update, Understanding the Effects of Family Violence on Adolescents, Media Depictions of Domestic Violence, A Continuum of Aggression: What We Know Today About Domestic Violence/ Honoring Children Voices, Enhanced Screening to Identify Indicators of Domestic Violence*. The regional trainings were attended by 305 participants.

TRIBAL COURT TECHNICAL ASSISTANCE

The tribal courts project implemented effective tribal/state policies to improve the mutual recognition and enforcement of tribal and state protective orders in the following ways:

Access to the California Courts Protective Order Registry for Tribal Courts

The project provided training and technical assistance to a total of 5 tribal courts and their tribal law enforcement departments to give them access to the California Courts Protective Order Registry (CCPOR). Access by tribal and state courts ensures that these courts can view each other's orders. The courts that have access are better able to

protect the public, particularly victims of domestic violence, and avoid issuing redundant or conflicting orders. Additional information is available at www.courts.ca.gov/15574.htm.

Assist with Development of Tribal Court Domestic Violence Forms

The project provided technical assistance to tribal justice systems in California with the development of tribal court domestic violence forms, and generally answered questions posed by tribal court clerks' and judges regarding their domestic violence calendars. In response to tribal courts and their clerk's requests for technical assistance, the project created a new webpage tailored to support tribal justice development in California and posted over 20 resources. This new webpage was launched and will be maintained by the AOC. Information is available at <http://www.courts.ca.gov/3064.htm>.

Assist with Registration of Tribal Court Protective Orders in State Court

The project developed a statewide procedure to register tribal court protective orders in state court. Effective July 1, 2012, rule 5.386 of the California Rules of Court requires state courts, on request by a tribal court, to adopt a written procedure or local rule permitting the fax or electronic filing of any tribal court protective order entitled to be registered under Family Code section 6404. Both the Violence Against Women Act (VAWA) and California law mandate full faith and credit for protective orders issued by tribal courts in accordance with VAWA requirements. [See 18 U.S.C. § 2265 and California's Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Fam. Code, §§ 6400–6409).] Under these laws, a protective order issued by a tribal or sister-state court is entitled to full faith and credit and enforcement and does not need to be registered in California. In practice, despite the full faith and credit mandate, many law enforcement agencies and officers will not enforce a protective order unless it can be verified in the California Restraining and Protective Orders System (CARPOS) through the California Law Enforcement Telecommunication System (CLETS). Very few tribal law enforcement agencies or courts currently have access to these systems to post their orders or review orders posted there by state agencies. By developing the statewide rule and assisting local courts with the development of local written procedures, recognition and enforcement of tribal protective orders have been significantly enhanced. See additional information at www.courts.ca.gov/documents/SPR11-53.pdf.

Statewide Procedure to Register Tribal Court Protective Orders

PUBLICATIONS

Annual Report and Fact Sheet

VAWEP has developed this document, a project annual report, as well as a basic project fact sheet that highlight key accomplishments and activities and that supply details about the project, its faculty, and its staff. These documents are available on the California Courts Web site: <http://www.courts.ca.gov/programs-dv.htm>. The project also distributes the report and fact sheet at educational programs and upon request.

Judges Guide to Domestic Violence Cases

The Judges Guide to Domestic Violence Cases is composed of five sections including a new section developed during the grant cycle entitled *Tribal Communities and Domestic Violence Cases*. The remaining four sections are: *California Protective Orders*, *Firearms* and *Full Faith and Credit*, revised this year, and *Immigration and Domestic Violence* and *Stalking*. The bench guide also includes a one-page bench tool, entitled *Emergency Protective Order (EPO) Quick Reference Guide*, also updated this year.

Tribal Communities and Domestic Violence Cases (Developed 2012)

This bench guide informs judicial officers about barriers, dispel myths about native victims, tribes, and the law, present a primer on federal Indian law, and highlight some of the interjurisdictional challenges state and tribal court judges face when recognizing and enforcing each other's protective orders. By understanding barriers facing native victims, delving into the complexities of federal Indian law, and uncovering the interjurisdictional challenges, courts will be better equipped to make rulings, avoid conflicting rulings, and engage native and non-native service providers and justice system professionals to better serve native victims.

California Protective Orders (Revised 2012)

The primary objective of this bench guide is to provide California judicial officers with a comprehensive reference guide to the requirements relating to the issuance of protective orders based on a variety of statutory authorities and relating to an array of court departments. The guide contains information about the underlying statutory requirements pertaining to protective orders, situations warranting the issuance of orders, the standards of proof required, the availability of the requested orders, the specific orders includable within the statutory schemes, the duration of the orders, the courts' responsibilities, any applicable firearms' restrictions, service requirements, enforcement of the orders, and other legal and procedural considerations.

Firearms and Full Faith and Credit (Revised 2012)

The primary objective of this component of the bench guide is to provide California judicial officers with a comprehensive reference to firearms prohibitions that impact domestic violence, sexual assault, and stalking cases. The guide examines federal and California statutory prohibitions. Relevant sections examine the restrictions, any exemptions, and relief from the prohibitions. The guide also covers the effect of federal law on state law, federal and California definitions, federal and California restrictions resulting from felony and misdemeanor convictions, California statutory restrictions applicable to juveniles and probationers, federal and California restrictions resulting from mental health proceedings, federal and California seizure and forfeiture procedures, and federal and California statutory restrictions applicable to protective orders.

Domestic Violence in Dependency Cases: A Judges Guide (Revised 2012)

The primary objective of this guide is to provide California judicial officers with a reference tool in considering the impact of domestic violence in juvenile court dependency cases and a description of the requirements relating to the issuance of juvenile court protective orders in dependency cases. This guide contains information about the effects of domestic violence on children, how domestic violence may affect parenting, safety considerations for the court, addressing domestic violence at each stage of a dependency case, and the issuance of juvenile court protective orders. The guide also includes a discussion of the required precedence in the enforcement of restraining orders issued by various courts.

Brochures for Judges, Attorneys, and the Public

Cross-Over Issues Relating to the Indian Child Welfare Act and Domestic Violence
<http://www.courts.ca.gov/documents/Tribal-CrossoverIWCA.pdf>

Recognition and Enforcement of Tribal Protective Orders
http://www.courts.ca.gov/documents/Tribal-RecognEnf_Brochure.pdf

Benchguides

Tribal Communities and Domestic Violence Cases Benchguide
<http://www.courts.ca.gov/documents/Tribal-DVBenchguide.pdf>

Title: Chapter on Domestic Violence in the Native American Resource Guide

Other

Published in catalogue of courses for judges the availability of a course by judges for judges on P.L. 280 and family violence

Online statistical abstract on domestic violence in native American communities
<http://www.courts.ca.gov/documents/Tribal-NAmericanStatsAbstract.pdf>

GOALS FOR FUTURE FUNDING CYCLES

In anticipation of funding for future grant cycles, VAWEF has set the following goals for the 2012–2013 project year (subject to approval and available funding):

- Convene two meetings of the project’s advisory committee;
- Conduct at least thirteen courses at the Primary Assignment Orientation Programs, the Criminal Assignment Courses programs, or at other related judicial studies programs on issues of domestic violence, sexual assault, stalking, elder abuse, teen dating violence, or human trafficking;
- Develop and publish online a project fact sheet and an annual report;
- Collaborate with the Center for Judiciary Education and Research and offer domestic violence courses at educational venues including Juvenile Law Institute, Family Law Institute, Cow County Judges Institute, Criminal Law Institute, and the 2013 B.E. Witkin Judicial College;
- Convene three stand-alone subject matter educational programs in the area of ethics and self represented litigants in domestic violence cases; trafficking and commercially sexually exploited children; and dependency proceedings involving children of domestic violence victims,
- Provide assistance to the courts or other AOC departments or regional offices in the form of a comprehensive training and technical assistance project that will provide a speakers’ bureau/peer mentoring, local training and education services, technical assistance, consultative services, and the purchase of equipment or software relating directly to the issues of domestic violence, sexual assault, stalking, teen dating violence, elder abuse, and human trafficking;
- Publish and post three modules of a stand-alone bench guide for judges guide on elder abuse cases, based on an outline completed during the previous grant year;
- Develop and conduct three cross-court educational exchanges for state and tribal court judges to continue the dialogue started as part of the Native American Communities Justice Project;
- Deliver at least two instances of distance learning training, using web-based, DVD, broadcast or other distance learning delivery methods, including judicial tool kits and check lists using content from either prior live training or based on newly created content;
- Integrate federal Indian law on domestic violence into existing judicial educational in-person programming, and develop a plan to continue integrating and updating those programs; and

- Retool existing curriculum and materials relating to P.L. 280 and family violence so that they are accessible in published catalog of courses and posted on the California Court Extranet (secured website for judges) as part of existing Judicial Toolkits.

VAWEP staff will continue to assess the greatest training, educational, and technical assistance needs of the California judicial branch so that judicial officers and court staff can optimally address the complex issues of domestic violence, sexual assault, stalking, elder abuse, teen dating violence, and human trafficking that currently face the courts.

VAWEP FACULTY

Judicial officers, researchers, and others have served as faculty for various VAWEP events. The project is grateful to these individuals for sharing their expertise with others to educate judicial officers, court staff, and professionals in other disciplines about issues of domestic and sexual violence. The following is a comprehensive list of all those who assisted the project from October 2011 through September 2012

Beyond the Bench Conference—*Family Law Domestic Violence: New Forms, Rules and Cases, The Importance of Domestic Violence Coordinating Councils, Lesbian, Gay Bisexual, and Transgender (LGBT) Domestic Violence: What You Need to Know, Human Trafficking: An Overview and Special Focus on Commercially Sexually Exploited Children (CSEC), System Change to Address Children’s Exposure to Violence, Family Law Settlement Services: Developing Protocols for Domestic Violence Cases, Recognition and Enforcement of Trial Protective Orders, New Developments in the Intersection of housing, Domestic Violence, and Family Law, Working with Domestic Violence Survivors Aged 24 and Under, Representing Same-Sex Couples in Dissolution and Domestic Violence Proceedings, Legal Update: New Rules and Forms for Family Law and Domestic Violence, Effective Responses to Abusers Using Legal Systems Against Victims of Domestic Violence (December 2011)*

Ms. Tamara Abrams
Senior Attorney, Administrative Office of
the Courts

Ms. Bonnie Rose Hough
Managing Attorney, Administrative Office
of the Courts

Hon. Richard Blake
Chief Judge, Hoopa Valley Tribal Court

Ms. Nicole Edwards-Masuda
Youth Program Manager, Family Violence
Law Center, Alameda County

Ms. Virginia Bird
Assistant Court Executive Officer, Superior
Court of Inyo County

Hon. Douglas Hatchimonji
Judge, Superior Court of Orange County

Ms. Deborah Chase
Senior Attorney, Administrative Office of
the Courts

Hon. Jacqueline J. Lewis
Judge, Superior Court of Los Angeles
County

Hon. Leonard Edwards (Ret.)
Judge, Superior Court of Santa Clara
County

Ms. Cindy Liou
Staff Attorney, Asian Pacific Islander Legal
Outreach

Hon. Mark Juhas
Judge, Superior Court of Los Angeles
County

Hon. Katherine Lucero
Judge, Superior Court of Santa Clara
County

Ms. Stacie Martinez
Attorney, Bay Area Legal Aid

Ms. Kathy Moore
Former Associate Director, California
Partnership to End Domestic Violence

Ms. Khanh Nguyen
Staff Attorney, Asian Pacific Islander Legal
Outreach

Hon. Kimberly J. Nystrom-Geist
Judge, Superior Court of Fresno County

Ms. Protima Pandey
Staff Attorney, Bay Area Legal Aid

Hon. Catherine Pratt
Commissioner, Superior Court of Los
Angeles County

Ms. Ann Rosewater
Consultant, California Leadership Group on
Domestic Violence and Child Wellbeing

Ms. Catherine Sakimura
Staff Attorney, National Center for
Lesbian Rights

Ms. Meliah Schultzman
Staff Attorney, National Housing Law
Project

Ms. Erin Scott
Director of Programs, Family Violence
Law Center, Alameda County

Ms. Terra Slavin
Lead Staff Attorney, Los Angeles Gay and
Lesbian Center

Hon. Dean Stout
Judge, Superior Court of Inyo County

Ms. Akiko Takeshita
Staff Attorney, Asian Pacific Islander Legal
Outreach

Mr. Paul Thorndal
Partner, CFLS, Wald & Thorndal

Ms. Julia Weber
Supervising Attorney, Administrative
Office of the Courts

Hon. Claudette White
Chief Judge, Quechan Tribal Court

Ms. Kristie Whitehorse
Managing Attorney, Family Violence Law
Center, Alameda County

Ms. Carolyn Thomas-Wold
Director, Solano County Office of Family
Violence Prevention

Hon. D. Zeke Zeidler
Judge, Superior Court of Los Angeles
County

Primary Assignment Orientation Courses—Family Law (*Domestic Violence Law and Procedure, Domestic Violence and Custody*) Juvenile Delinquency (*Juvenile Delinquency Orientation*), Probate (*Civil Protective Orders for Elderly and Dependent Adults*), Criminal Law (*Issues Unique to Domestic Violence*), Juvenile Dependency (*The Impact of Domestic Violence on Children* (January, June and September 2012))

Hon. Irma Asberry
Judge, Superior Court of Riverside County

Dr. Margaret Lee
Mill Valley

Hon. Joyce M. Cram
Judge, Superior Court of Contra Costa
County

Dr. Mary Elizabeth Lund
Lund & Strachan, Inc., Santa Monica

Hon. Mark A. Juhas
Judge, Superior Court of Los Angeles
County

Hon. Darrell Mavis
Judge, Superior Court of Los Angeles
County

Hon. Allan D. Hardcastle
Judge, Superior Court of Sonoma County

Hon. Beverly Reid O’Connell
Judge, Superior Court of Los Angeles
County

Hon. Brian Hoffstadt
Judge, Superior Court of Los Angeles
County

Hon. Philip H. Pennypacker
Judge, Superior Court of Santa Clara
County

Hon. Michael Gassner
Commissioner, Superior Court of San
Bernardino County

Hon. Dale R. Wells
Judge, Superior Court of Riverside County

Hon. Carol Isackson
Judge, Superior Court of San Diego County

Continuing Judicial Education Criminal Assignment Courses—*Handling Sexual Assault Cases, Selected Issues in Criminal Domestic Violence Cases – Criminal Procedure from Arraignment through Sentencing* (March and June 2012)

Hon. George W. Clarke
Judge, Superior Court of San Diego County

Hon. Brian Hoffstadt
Judge, Superior Court of Los Angeles
County

Hon. J. Richard Couzens (Ret.)
Judge, Superior Court of Placer County

Dr. Ellen G. Stein
Clinical and Forensic Psychologist, San
Diego

Criminal Law Institute —*Protective Orders and Reducing Lethality in Domestic Violence Cases* (February 2012)

Hon. Lewis A. Davis
Judge, Superior Court of Contra Costa
County

Hon. Erick L. Larsh
Judge, Superior Court of Orange County

Domestic Violence Ethics and Self-Represented Litigants (March 2012).

Hon. Jerilyn Borack
Judge, Superior Court of Sacramento
County

Hon. B. Scott Thomsen
Judge, Superior Court of Nevada County

Hon. Becky Dugan
Judge, Superior Court of Riverside County

Hon. Erica A. Yew
Judge, Superior Court of Santa Clara
County

Hon. Mark A. Juhas
Judge, Superior Court of Los
Angeles County

Domestic Violence Judicial Institute: Enhancing Judicial Skills in Domestic Violence Cases and Pre-Institute Course: Nuts and Bolts of California Domestic Violence Restraining Order Laws (May 2012)

Hon. Irma Asberry
Judge, Superior Court of Riverside County

Hon. Sharon Chatman
Judge, Superior Court of Santa Clara
County

Hon. Jerilyn Borack
Judge, Superior Court of Sacramento
County

Hon. Sherrill Ellsworth
Judge, Superior Court of Riverside County

Hon. Susan Breall
Judge, Superior Court of San Francisco
County

Hon. Julie Emede
Judge Superior Court of Santa Clara
County

Hon. Yvonne Campos
Judge, Superior Court of San Diego County

Hon. Curtis Fiorini
Judge, Superior Court of Sacramento
County

Hon. Janet Gaard
Judge, Superior Court of Yolo County

Hon. Michele Levine
Judge, Superior Court of Riverside County

Hon. Garry Haehnle
Judge, Superior Court of San Diego County

Hon. Gregory Olson
Commissioner, Superior Court of Riverside
County

Hon. Arlan Harrell
Judge, Superior Court of Fresno County

Hon. Tara Reilly
Judge, Superior Court of San Bernardino
County

Hon. Mark A. Juhas
Judge, Superior Court of Los Angeles
County

Cow County Judges Institute—*Lethality and Dangerousness in Domestic Violence Cases, Criminal Elder Abuse* (June 2012)

Hon. Abby Abinanti
Chief Judge of the Yurok Tribal Court,
Klamath

Hon. Joyce Cram
Judge, Superior Court of Contra Costa
County

Dr. Jacquelyn C. Campbell
Professor, Johns Hopkins University,
School of Nursing, Baltimore, Maryland

Hon. Dean Stout
Judge, Superior Court of Inyo County

Hon. Julie Conger (Ret.)
Judge, Superior Court of Alameda County

B.E. Witkin Judicial College—*Domestic Violence Awareness* (August 2012)

Hon. Dianna J. Gould-Saltman
Judge, Superior Court of Los Angeles County

Hon. Philip H. Pennypacker
Judge, Superior Court of Santa Clara County

Hon. Jane Shade
Commissioner, Superior Court of Orange County

Domestic Violence Safety Partnership (DVSP) Project (October 2011-September 2012)

Det. Michael Agnew (Ret.)
Fresno Police Department

Mr. Lundy Bancroft
Domestic Violence Consultant,
Northampton, Massachusetts

Ms. Sarah Buel
Clinical Professor, Sandra Day O'Connor
College of Law, Arizona State University

Dr. Tonya Chaffee
Associate Clinical Professor, Health
Sciences, School of Medicine, University of
California, San Francisco

Dr. Jeffrey Edelson
Dean and Professor, School of Social
Welfare, University of California, Berkeley

Ms. Alyce LaViolette
Domestic Violence Consultant, Long Beach

Ms. Elizabeth MacDowell
Associate Professor of Law, University of
Nevada

Dr. Ian Russ
Child Custody Evaluator, Encino

Ms. Gabrielle Selden
Attorney, Administrative Office of the
Courts

Ms. Alicia Stonebreaker
Program Coordinator, California
Partnership to End Domestic Violence,
Sacramento

Ms. Julia Weber
Supervising Attorney, Administrative
Office of the Courts

APPENDIX

STOP GRANT PURPOSE AREAS

The U.S. Department of Justice, Office on Violence Against Women STOP (Services*Training*Officers*Prosecutors) formula grants are intended for use by states; state, local, and tribal courts; Indian tribal governments; units of local government; and nonprofit, nongovernmental victim services programs. Grants supported through this program must fall into one or more statutory program purpose areas. The purpose areas most closely related to this project are:

- Training law enforcement officers, judges, other court personnel, and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;
- Developing, training, or expanding units of law enforcement officers, judges, other court personnel, and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, enlarging, or strengthening victim services programs, including sexual assault, domestic violence, and dating violence programs; developing or improving delivery of victim services to underserved populations; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault, domestic violence, and dating violence;
- Developing, enlarging, or strengthening programs addressing stalking;
- Supporting formal and informal statewide, multidisciplinary efforts, to the extent not supported by state funds, to coordinate the response of state law enforcement agencies, prosecutors, courts, victim service agencies, and other state agencies and departments to violent crimes against women, including the crimes of sexual assault, domestic violence, and dating violence;
- Developing and implementing more effective police, court, and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;
- Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the

crimes of sexual assault and domestic violence; and

- Developing, enlarging, or strengthening programs to assist law enforcement, prosecutors, courts, and others to address the needs and circumstances of older and disabled women who are victims of domestic violence or sexual assault, including recognizing, investigating, and prosecuting instances of such violence or assault and targeting outreach and support, counseling, and other victim services to such older and disabled individuals.

**Domestic Violence Practice and Procedure Task Force
Annual Agenda—2013**

Approved by E&P/RUPRO: _____

I. COMMITTEE INFORMATION

Chair:	Hon. Laurence Donald Kay (Ret.), former Presiding Justice, Court of Appeal, First District, Division Four
Staff:	Ms. Bobbie Welling, Supervising Attorney; Ms. Penny Davis, Senior Court Analyst; Ms. Carly Thomas, Administrative Coordinator; Center for Families, Children & the Courts
<p>Committee's Charge:</p> <ul style="list-style-type: none"> • Implement as appropriate the guidelines and the practices in the Final Report of the Domestic Violence Practice and Procedure Task Force accepted by the Judicial Council on February 22, 2008; • Select and refer guidelines and practices, as appropriate, to Judicial Council internal committees, advisory committees, AOC divisions, or other entities for implementation, including preparation of suggested legislation, rules, forms, or educational materials to be considered through the normal judicial branch processes; • Collaborate with Center for Judicial Education and Research Governing Committee to propose revision of the rules relating to minimum judicial educational requirements to address issues of domestic violence; • Study the need for additional resources that local courts may require to implement the proposed guidelines and practices; and • Periodically report progress of implementation efforts to the Judicial Council. <p><i>[See request for revision of charge and extension of terms in key objectives below.]</i></p>	
<p>Committee Membership:</p> <p>16 members: 1 justice of the Court of Appeal (retired); 12 judges/retired judges, 3 current/retired court executive officers</p>	
<p>Subcommittees/Working Groups:</p> <p>Not applicable</p>	

Committee's Key Objectives for 2013:

1. Request revision of the task force charge to include the existing functions of the Violence Against Women Education Project (VAWEP) Planning Committee to achieve cost savings and ensure accountability;
2. Research and recommend proposals to address current issues in domestic violence cases;
3. Plan for and evaluate judicial branch education programs, practical bench tools and publications, and interactive symposia about domestic violence and related subjects in collaboration with the Center for Judicial Education and Research Governing Committee; and
4. Develop, collaborate with other relevant advisory groups, and recommend to the Judicial Council changes in procedure, rules, or recommended practices in domestic violence and related cases.

II. COMMITTEE PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status
1	<p>Serve as planning group required by grant funding for the Violence Against Women Education Project (VAWEP) Request revision of the task force charge, extension of its members' terms to June 30, 2015, and appointment of additional members to provide for review and guidance for grant activities as required by the funder.</p>	1	<p>Judicial Council Direction:</p> <p>Goal IV -- Quality of Justice and Service to the Public Objective 1 – Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes. Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Required by grant funder</p> <p>Origin of Project: The current Violence Against Women Education Project (VAWEP) funding requires continuation of a planning committee</p>	Revision by March 30, 2013; ongoing

¹ 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.

² 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 ¹	Priority ²	Specifications	Completion Date/Status
			<p>“comprised of judicial officers, attorneys, district attorney representatives, victim advocates, Tribal representatives, and other subject matter experts to guide the project staff in identifying the training needs of California court personnel in the areas of domestic violence, sexual assault, stalking, dating violence, and human trafficking.”</p> <p>A fact sheet about the project, which includes the planning committee roster, is attached.</p> <p>Since inception of its implementation phase, the task force has worked collaboratively with the VAWE Planning Committee, an informal group, on key grant-funded projects. The task force proposes formalizing what has historically been an informal arrangement to meet grant conditions.</p> <p>Cost savings, continuity, and accountability could be better achieved by combining the two groups under the auspices of the task force. The task force proposes to submit a plan for augmentation of the task force membership, not to exceed 28 members, to comply with grant requirements.</p> <p>Resources:</p> <p>Key Objective Supported: Key Objective # 1</p>	
2	<p>Develop a plan to address new and emerging issues relating to domestic violence cases Make recommendations to the Judicial Council regarding how best to address the continuing need to respond to new and emerging issues in</p>	1	<p>Judicial Council Direction:</p> <p>Goal IV -- Quality of Justice and Service to the Public</p> <p>Objective 1 – Foster excellence in public service to</p>	<p>Submit report and evaluation to Judicial Council, June 2014</p>

#	Project ¹	Priority ²	Specifications	Completion Date/Status
	domestic violence and related cases.		<p>ensure that all court users receive satisfactory services and outcomes.</p> <p>Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Origin of Project: The current fiscal crisis in the California courts has created an urgent need to evaluate whether a continued statewide ongoing presence is necessary to make recommendations for changes in practice and procedure relating to domestic violence issues. Potential new and emerging issues include: evaluating the impact of court closures and the need for increased access and safety; realignment and the development of evidenced-based practices as they may relate to domestic violence cases; demographic changes and the aging population and their impact on elder abuse; the complexity of domestic violence cases involving mental health and substance abuse issues; the changing needs of military families for whom family violence may be a factor; and the need to deploy technology to assist in solving problems of access and safety.</p> <p>Resources: Consult with all relevant advisory groups as needed.</p> <p>Key Objective Supported: Key Objective # 2</p>	

#	Project ¹	Priority ²	Specifications	Completion Date/Status
3	<p>Publications and Bench Tools Provide review and guidance in the development and distribution of the following bench tools and publications:</p> <ul style="list-style-type: none"> • two modules of an elder abuse bench guide; • a script for judicial officers relating to firearms relinquishment; • a bench card on the mandatory terms and conditions of probation in domestic violence cases; • online publication of an annual report and fact sheet about grant activities; and • updated guidelines originally recommended by the task force and approved by the Judicial Council in 2008. 	2	<p>Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The publications and bench tools project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant.</p> <p>Resources: CJER Governing Committee</p> <p>Key Objective Supported: Key Objective #3</p>	September 30, 2013, end of the grant year
4	<p>Judicial Branch Statewide and Regional Educational Programs Recommend and evaluate key judicial branch educational programs for those hearing domestic violence matters. A fact sheet summarizing this year’s planned activities is attached.</p>	1	<p>Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The judicial branch education project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant.</p>	Ongoing

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			Resources: CJER Governing Committee Key Objective Supported: Key Objective #3	
5	Local Court Education and Technical Assistance -- Domestic Violence Safety Partnership (DVSP) Plan and evaluate support and technical assistance for local judicial and staff education in response to requests from presiding judges and court executive officers. A fact sheet about this project is attached.	2	Judicial Council Direction: Implementation of task force recommendations Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff. Origin of Project: The local court education and technical assistance project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant. Resources: CJER Governing Committee. Key Objective Supported: Key Objective #3	Ongoing; grant objectives specify conducting at least 7 local programs
6	Family Law Firearms Relinquishment Procedure Recommend rule relating to firearms relinquishment in proceedings under the Domestic Violence Prevention Act.	1	Judicial Council Direction: Goal III – Modernization of Management and Administration Objective 4—Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide. Objective 5 – Develop and implement effective trial	Jan. 2014 Draft pending before task force

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>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>Goal IV -- Quality of Justice and Service to the Public</p> <p>Objective 1 – Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</p> <p>Objective 3 – Develop and support collaborations to improve court practices, to leverage and share resources, and to create tools to education court stakeholders and the public.</p> <p>Origin of Project: This project is within the task force charge.</p> <p>Resources: The task force will take the lead in developing a family law firearms relinquishment proposal in consultation with the Family & Juvenile Law Advisory Committee, and the task force and the advisory committee will consider a joint proposal for circulation.</p> <p>Key Objective Supported: Key Objective # 4</p>	
7	<p>Distance Learning Projects</p> <p>Plan and evaluate at least two instances of distance learning training, using web-based, DVD, broadcast, or other distance learning delivery methods, including judicial tool kits and check lists using content from either prior live trainings or based on newly created content.</p>	2	<p>Judicial Council Direction:</p> <p>Implementation of task force recommendations</p> <p>Goal V-- Education for Branchwide Professional Excellence</p> <p>Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including</p>	September 30, 2013

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The distance learning project contains both items relating to the task force charge and deliverables within the Violence Against Women Education Project grant.</p> <p>Resources: CJER Governing Committee</p> <p>Key Objective Supported: Key Objective #3</p>	
8	<p>Domestic Violence and Dependency Forum Plan and evaluate an interactive invitational educational forum to discuss problems and issues relating to domestic violence and dependency cases and to identify emerging best practices when children who are exposed to domestic violence are adjudicated as dependents. Post an educational forum report on Serranus.</p>	2	<p>Judicial Council Direction: Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</p> <p>Origin of Project: The domestic violence and dependency forum relates to the task force charge and deliverables within the Violence Against Women Education Project grant.</p> <p>Resources: Family & Juvenile Law Advisory Committee</p> <p>Key Objective Supported: Key Objective #3</p>	September 30, 2013

#	Project ¹	Priority ²	Specifications	Completion Date/Status
9	<p>Domestic Violence Judicial Newsletter Provide guidance to the AOC in the continued publication of an online newsletter for judicial officers and court staff. The newsletter will highlight new legislation, significant cases, local court innovative projects, educational opportunities, and best practices. The newsletter will support education and information about implementation efforts generally.</p>	2	<p>Judicial Council Direction: Goal V-- Education for Branchwide Professional Excellence Objective 1 – Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff</p> <p>Origin of Project: The newsletter project relates to the task force charge.</p> <p>Resources: The newsletter would continue to be distributed on line through Court News Update, and staff would coordinate with CNU staff.</p> <p>Key Objective Supported: Key Objective #3</p>	Ongoing
10	<p>California Courts Protective Order Registry (CCPOR) Serve in an advisory role as subject matter experts in the continued deployment of the CCPOR project. The project has developed a restraining order database so that the full text of all restraining and protective court orders statewide will be available easily online to judicial officers and staff. The database has been deployed in 21 courts, and an additional 10 courts will be deployed through grant funding during the next fiscal year.</p>	1	<p>Judicial Council Direction: Goal III – Modernization of Management and Administration Objective 4 Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Goal IV – Quality of Justice and Service to the Public Objective 1—Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes</p>	June 30, 2013 for next 10 courts; ongoing

#	Project ¹	Priority ²	Specifications	Completion Date/Status
			<p>Origin of Project: Judicial Council direction as part of task force charge.</p> <p>Resources: Court Technology Advisory Committee, Information Technology Services Office.</p> <p>Key Objective Supported: Key Objective #3</p>	

III. STATUS OF 2012 PROJECTS:

[List each of the projects that were included in the 2012 Annual Agenda and provide the status for the project. If the project is on the proposed 2013 Annual Agenda, include cross-reference to the 2013 project number above under Completion Date/Status.]

#	Project	Completion Date/Status
1	Firearms relinquishment rule follow up	Completed: Follow up report submitted to the Judicial Council and approved on February 9, 2012. Draft protocol reviewed and approved by task force, to be posted on Serranus and distributed in judicial education programming February 2013
2	Inclusion of practices in judicial education	Ongoing See 2013 Objective #4
3	Update bench cards and bench guides	Completed: Judges Guide to Domestic Violence Cases, Domestic Violence and Dependency Cases: A Judges Guide; restraining order bench cards all updated and posted online – December 2012
4	California Courts Protective Order Registry (CCPOR) Project	Ongoing, see 2013 Objective # 10
5	Revise Emergency Protective Order form JC Form EPO-001	Completed, revised form effective 1/1/13
6	Serranus site map and domestic violence newsletter	Ongoing; site map deferred; to be integrated into CJER judicial tool kits See 2013 Objective # 9
7	Revision and formal publication of recommended guidelines and practices	Guidelines updated; to be posted Feb. 2013

IV. RESOURCE INFORMATION

[For the committee year (11/1/2012 - 10/31/2013), provide the position classifications and hours spent by staff relating to this committee (including subcommittee and working group activities) in the table below broken out between logistical versus substantive activities.]

Office	Position Classification	Hours/Year		Total Hours/Year
		Logistical	Substantive	
Center for Families, Children & the Courts	Supervising Attorney		221	221
Center for Families, Children & the Courts	Attorney		40	40
Center for Families, Children & the Courts	Senior Court Analyst		24	24
Center for Families, Children & the Courts	Administrative Coordinator	32		32

V. COST INFORMATION

[Provide the following estimated cost information for the committee year (11/1/2012 - 10/31/2013), as well as separate cost information (if appropriate) for any subcommittees or working groups.]

	In-person meeting(s) Number:	Video- /teleconference(s) Number:	Total
TRAVEL			
Airfare	\$ 4,500	\$	4,500
Hotel/Meals (allowable per diem)	\$ 700	\$	700
All other travel costs (mileage, parking etc.)	\$ 1,500	\$	1,500
Total Cost for Travel Expenses	\$6,700	\$	\$ 6,700
CATERING			
Total Catering Costs	\$ 450	\$	\$450
MATERIALS/MAILING/OTHER			
<i>Duplication of Meeting Materials/Overnight Mailing</i>	\$300	\$	300
<i>[Specify]</i>	\$	\$	
<i>[Specify]</i>	\$	\$	
Total Materials/Mailing/Other	\$300	\$	\$ 300
Grand Total	\$7,450	\$	\$ 7,450

VI. Subcommittees/Working Groups - Detail

Subcommittees/Working Groups:

Not applicable



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OF THE COURTS

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FACT SHEET

August 2012

Domestic Violence Safety Partnership (DVSP)

Domestic violence is a critical issue facing family, criminal, and juvenile courts in California. The Domestic Violence Safety Partnership (DVSP) was developed to enhance safety and improve practices and protocols in the handling of domestic violence cases. A court that participates in the DVSP may use the Domestic Violence Safety Partnership Self-Assessment—a tool furnished by the Administrative Office of the Courts (AOC)—to examine its own practices and needs in the handling of domestic violence cases, especially in relation to legal mandates¹. The court, if it wishes, can then work with the DVSP project staff to discuss ways of improving its practices or to obtain the training or technical assistance that the court has determined would be helpful.

The court does not pay for training or technical assistance received through the DVSP. Funding for this component of the project is granted to the AOC by the California Emergency Management Agency (Cal EMA), with resources from the federal Office on Violence Against Women (OVW).

Project Goals

DVSP provides resources for local courts so that they can:

- Identify and review selected statutes and other mandates addressing domestic violence;
- Identify and review safety considerations related to domestic violence cases;
- Obtain technical assistance to ensure compliance with requirements or enhance safety;
- Deliver local training on domestic violence–related topics for judicial officers or court staff; and
- Obtain computer or audiovisual equipment for court-specific domestic violence related projects.

This project is supported by CW11101535 awarded by Cal EMA administering for the STOP Formula Grant Fund Program. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author and do not necessarily reflect the views of Cal EMA or the U.S. Department of Justice, Office of Violence Against Women. Cal EMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and use materials and to authorize others to do so.

¹ The self-assessment tool is being reviewed and revised. The 2010 version is no longer current. Courts may refer to it, however, at <http://serranus.courtinfo.ca.gov/programs/dvsp>. A new tool will be available January 2013.

Assessment Tools

The packet addresses procedures in the following categories:

- Emergency Protective Orders
- Civil Domestic Violence [Domestic Violence Protection Act (DVPA)]–Prehearing
- Civil Domestic Violence (DVPA)–Hearing
- Civil Domestic Violence (DVPA)–Post-hearing
- Domestic Violence Review–Family Court Services Domestic Violence Protocol
- Criminal Court Domestic Violence Restraining Order Review
- Juvenile Dependency Court Restraining Orders–General
- Juvenile Dependency Court Restraining Orders–Temporary Restraining Orders
- Juvenile Dependency Court Restraining Orders–Content of Orders
- Juvenile Dependency Court Restraining Orders–Post-hearing
- Juvenile Dependency Court–Court-Connected Dependency Mediation
- Juvenile Delinquency Court Restraining Orders–General
- Juvenile Delinquency Court Restraining Orders–Temporary Restraining Orders
- Juvenile Delinquency Court Restraining Orders–Content of Orders
- Juvenile Delinquency Court Restraining Orders–Post-hearing
- Court Administration: Facilities and Education
- Part II–Safety Considerations

Criteria for Applying for Funds for Technical Assistance or Local Education

Applications for technical assistance or local education will be handled on a first-come, first-served basis until funds are exhausted. DVSP funds will be expended for short-term projects up to \$5,000. Requests for amounts that exceed \$5,000 will be taken into consideration on a case-by-case basis. The funding cycle is on the federal fiscal year from October 1 through September 30. As a result, all activities must be completed by September 30, 2013. No funds are available to pay directly for meals, although travel meals can be reimbursed through a travel claim process, using the state's per diem rates.

All requests must be directly related to the DVSP's primary goals set out above. Requests must also relate specifically to enhancing a court's response in cases involving adult victims of domestic violence.

Types of Assistance Available

No funds will be given directly to the local courts. Requests for assistance must be for goods or services that can be procured by the AOC. Examples of likely types of assistance follow:

- Reimbursement of travel costs for a team from your court to visit another court;
- Purchase of consulting services to assist your court;
- Payment of an honorarium and travel expenses for faculty for a local education program;
- Funding for logistical expenses (excluding payment for on-site meals) associated with local education programs; and
- Purchase of computer equipment to access either the California Court Protective Order Registry (CCPOR) or the California Restraining and Protective Order System (CARPOS) or other relevant databases housed within the California Law Enforcement Telecommunications System (CLETS).
- Purchase of audio visual equipment to show videos to parties in domestic violence court on court procedure.

Further Information and DVSP Staff

For additional information about DVSP please visit
<http://serranus.courtinfo.ca.gov/programs/dvsp> or contact:

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**Domestic Violence Practice and Procedure Task Force
Chronology and Projects
2005—2013**

1. Fact Finding and Recommendation Phase

- ✓ **Appointment** – September 2005
- ✓ **Fact finding:**
 - Public hearings (2)
 - Regional court meetings (3)
 - Distribution of guidelines for statewide comment
 - Comment analysis
- ✓ **Recommendations:**
 - Recommended guidelines and practices submitted to the Judicial Council in the areas of Court Leadership, Domestic Violence Prevention Act Restraining Orders, Firearms Relinquishment, Access t and Entry of Orders into the California Law Enforcement Telecommunications System (CLETS), and Criminal Procedure (139 guidelines/practices)
 - Report Submitted to and Received by the Judicial Council -- February 2008

2. Implementation Phase

- ✓ **Educational Programs [Total 191 events/workshops – conducted in partnership with CJER and VAWEP]**
 - Criminal law – domestic violence components/workshops
 - Primary Assignment Orientations (16)
 - Special Topics – Immigration, Criminal Procedure (3)
 - Criminal Law Institute Workshops (2)
 - Family law—domestic violence components/workshops
 - Primary Assignment Orientations (14)
 - Family Law Institute Workshops (7)
 - Family Court Professionals (34)
 - Juvenile law (dependency and delinquency)
 - Primary Assignment Orientations (8)
 - Juvenile Law Institute Workshops (5)

- Probate
 - Primary Assignment Orientations (5)
 - Elder abuse (2)

- Interdisciplinary
 - Managing for Safety (Presiding Judges and Court Executive Officers) (1)
 - Ethics and Self-Represented Litigants in Domestic Violence Cases (5)
 - Domestic Violence Institute (3)
 - Judges College (6)
 - Cow County Institute workshops (9)

- Assigned Judges (3)

- Conferences
 - Women of Color Conference (1 domestic violence track)
 - Beyond the Bench (18 workshops)
 - National Association of Women Judges (4 workshops)

- Distance Learning Projects (2)
 - (DVDs, Broadcasts, Online courses)

- Domestic Violence Safety Partnership Program
 - Local court education and technical assistance (34 courses)

- Specialized informational meetings
 - Firearms (2)
 - Juvenile court restraining orders (1)

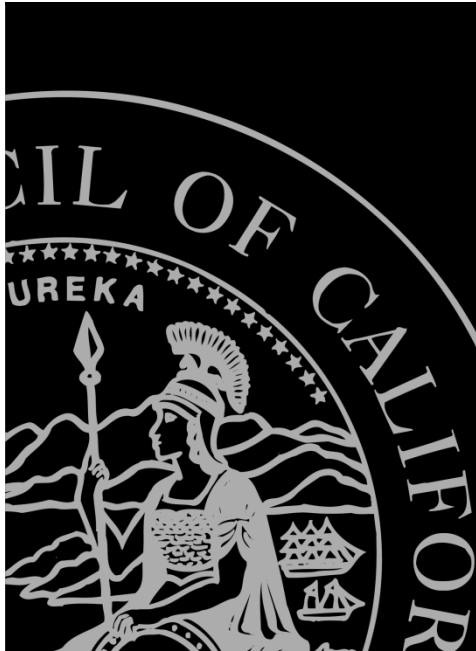
- ✓ **Rules of Court**
 - Education – California Rules of Court, rule 10.462
 - Criminal law firearms relinquishment – California Rules of Court, rule 4.700
 - Family law firearms relinquishment – in development

- ✓ **Forms Changes**
 - Restraining order forms – DV 110 and 109
 - Emergency Protective Order Form

- ✓ **California Courts Protective Order Registry (CCPOR) Project**
Implemented in 31 courts by June 2013

- ✓ **Court Meetings and Roundtables (5)**

- ✓ **Publications and Bench Tools**
 - Judges Guide to Domestic Violence Cases
 - Domestic Violence and Dependency
 - Elder Abuse – in development
 - Recognizing Dangerousness and Lethality Bench Card
 - Judicial Update Newsletter (3 issues)



Recommended Guidelines and Practices for Improving the Administration of Justice in Domestic Violence Cases

FINAL REPORT OF THE DOMESTIC
VIOLENCE PRACTICE AND
PROCEDURE TASK FORCE

JANUARY 2008

[WITH ENDNOTES ADDED AUGUST
2013 REFLECTING CURRENT LAW]



ADMINISTRATIVE OFFICE
OF THE COURTS

CENTER FOR FAMILIES, CHILDREN
& THE COURTS

Judicial Council of California
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The Presiding Judges' White Paper on Domestic Violence: The Role of the Presiding Judge in the Administration of Domestic Violence Cases	

Introduction to Recommended Guidelines and Practices

On September 6, 2005, Chief Justice Ronald M. George appointed the Judicial Council Domestic Violence Practice and Procedure Task Force to recommend improvements to court practice and procedure in cases involving domestic violence allegations. As Chief Justice George stated when he initially appointed the task force members, “Our goals are to ensure fair, expeditious, and accessible justice for litigants in these critical cases and to promote both victim safety and perpetrator accountability.”

The task force charge also included the review and implementation, as appropriate, of court-related recommendations contained in the June 2005 report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, entitled *Keeping the Promise: Victim Safety and Batterer Accountability*.

Areas of Inquiry

A significant component of the task force’s work has involved the development of a series of recommended guidelines and practices. These guidelines and practices were derived from statutory and other mandates as well as suggestions for improvements in the administration of justice relating to cases alleging domestic violence. In general, the guidelines and practices fall into the following categories of inquiry:

- Court leadership;
- Restraining orders;
- Firearms relinquishment;
- Entry of restraining and protective orders into the Domestic Violence Restraining Order System (DVROS) and access to that system; and
- Criminal law procedures.

Methodology

Over a period of two years, the task force met eight times and conducted a series of conference calls, both to develop and discuss the proposed guidelines and practices and to review the comments, public hearing testimony, and regional court meeting summaries received. In crafting its recommendations, the task force relied on the expertise and experience of its members, an extensive literature search, recommendations submitted by presiding judges and court executive officers, suggestions from attendees at judicial education programs in subject areas relating to domestic violence, and survey results from court staff and family law judicial officers. In addition, the task force conducted two invitational forums designed to develop proposals in the difficult areas of firearms restrictions and relinquishment and access to and entry of orders into DVROS.

In March 2007, the task force conducted public hearings in San Francisco and Los Angeles. In May and June 2007, Chief Justice George invited local courts to conduct community meetings designed to determine how the proposals would work practically in local jurisdictions. Regional court meetings were then convened in Sonoma, Burlingame, and Torrance to bring court leaders together to share the results of the local meetings and to further develop the proposals. Finally, the task force conducted focus groups with specific stakeholders and interactive meetings with the following Judicial Council

advisory committees: Family and Juvenile Law Advisory Committee, Criminal Law Advisory Committee, Collaborative Justice Courts Advisory Committee, Trial Court Presiding Judges Advisory Committee, and Court Executives Advisory Committee.

Guiding Principles

Development of the task force proposals was guided by the following key principles, as well as by goals previously established by the Judicial Council:

- Promote the safety of all court participants;
- Ensure accountability of domestic violence perpetrators;
- Improve accessibility to the courts for the parties by maximizing convenience, minimizing barriers, and ensuring fairness for a diverse population;
- Promote the use of technology to enhance the administration of justice in cases involving domestic violence allegations; and
- Emphasize the need for court leadership and adequate resources.

These overarching principles are consistent with and derived from the Judicial Council's strategic plan and three of its primary goals: Access, Fairness, and Diversity; Quality of Justice and Service to the Public; and Modernization of Management and Administration. Moreover, these principles fit squarely within several of the thematic areas targeted by the council as part of its continuing efforts to improve public trust and confidence in the California courts: removing barriers to court access, recognizing the needs of a diverse population, and ensuring fairness in procedures and outcomes.

The task force, in developing its recommended guidelines and practices, recognizes that improving the administration of justice in cases involving allegations of domestic violence must be a systemic endeavor. Many of these proposals are detailed and technical in nature because systemic problems often require a detailed analysis and approach. The task force wishes to emphasize that implementation of some of its proposals will require additional resources. The members believe, however, that scarce resources should not limit the courts in determining how to improve the administration of justice in domestic violence cases, and that courts should be encouraged to examine and evaluate how resources are allocated.

Court Leadership

Local court leadership is a critical component of any effort to improve the administration of justice in domestic violence cases. More importantly, court leadership is necessary for both maintaining and institutionalizing improvements that have been already achieved. As stated in the Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability*:

To redress most of the problematic practices we have identified, there must be close collaboration among multiple agencies in each local criminal justice system. In most of those collaborative efforts, perhaps the most significant agency—certainly a necessary agency—is the judiciary.¹

Cognizant of this crucial court leadership role, the task force consulted with numerous presiding judges and court executive officers and invited testimony on the issue of court leadership at its public hearings. The task force determined that its proposals relating to court leadership in the administration of domestic violence cases should further the following goals:

- Urge allocation of adequate resources to domestic violence cases;
- Provide for ongoing evaluation and monitoring;
- Encourage local court participation in domestic violence councils or court-convened committees made up of all interested justice system entities and community organizations;
- Encourage participation in a statewide registry of protective and restraining orders;
- Recommend that the creation of specialized domestic violence courts or calendars be considered;
- Discourage the use of temporary judges in domestic violence cases; and
- Ensure that judicial officers who perform duties in domestic violence matters receive regular education in this subject area.

The Executive Committee of the Judicial Council's Trial Court Presiding Judges Advisory Committee, on behalf of the full committee, submitted to the task force for consideration a white paper entitled, *The Role of the Presiding Judge in the Administration of Domestic Violence Cases in Our Courtrooms*. In this document, attached at page 45, the advisory committee supported the task force recommendations and emphasized the importance and role of the presiding judges in partnership with court executive officers in ensuring implementation of these recommendations. As stated in the white paper:

To ensure that courts comply with mandates promulgated to increase safety and accountability, the presiding judge and court executive officer should maintain a system of internal self-assessment and audits so that the court is continuously

¹ Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability* (June 2005), p. 84.

monitoring its own progress. Perhaps more important, the local courts themselves, if they pursue a course of internal assessment, will be able to develop sound practice and procedures to voluntarily improve the administration of justice in these cases consistent with unique local structure and needs.

Task force recommendations relating to court leadership are as follows:

1. ***Court leadership.*** In order to improve public safety and promote public trust and confidence in the justice system, the presiding judge and court leaders should allocate adequate resources, including those for staffing and education, to ensure the fair and accessible adjudication of cases involving domestic violence allegations. The courts should engage in an ongoing process to develop, monitor, and evaluate procedures and protocols designed to improve the administration of justice in these critical cases.
2. ***Working with justice system entities and community organizations.*** As ethically appropriate, the court should participate in domestic violence coordinating councils or court-convened committees that provide an opportunity for justice system agencies and community organizations to comment on court practices and procedures relating to domestic violence cases, as well as providing a mechanism for improving these practices and procedures. Ethically appropriate councils or committees, at a minimum, (1) are inclusive in that representatives from all interests and sides of the litigation are invited to participate, (2) do not involve discussion of pending cases, (3) do not involve judicial officers in fundraising, and (4) do not involve judicial officers in lobbying for the adoption of legislative measures.
3. ***Use of temporary judges.*** To the extent feasible, the use of temporary judges to adjudicate cases that typically involve domestic violence allegations is discouraged. In no event should temporary judges preside over such cases unless they have received education concerning domestic violence cases.
4. ***Judicial education.*** Presiding judges should ensure that judges and subordinate judicial officers who perform duties in domestic violence matters receive regular training and education in this subject area. They should also ensure, under rule 10.462 of the California Rules of Court, that (1) each new trial court judge and subordinate judicial officer with an assignment in criminal, family, juvenile delinquency, juvenile dependency, or probate attend an orientation course in his or her primary assignment that contains a domestic violence session within one year of taking the oath of office and (2) unless he or she is returning to an assignment after less than two years in another assignment, each judge or subordinate judicial officer who is beginning a new primary assignment in criminal, family, juvenile delinquency, juvenile dependency, or probate complete a course in the new primary assignment that contains a domestic violence session within six months of beginning the new assignment.
5. ***California Courts Protective Order Registry (CCPOR).*** Each presiding judge and court executive officer should make accessible to judges the CCPOR, a Web-based,

statewide centralized system for viewing protective and restraining orders and related information.²

6. ***Court structure and calendars.*** Each court should consider whether to create dedicated domestic violence courts or specialized calendars based on the unique circumstances and characteristics of that jurisdiction and the resources available to it. In making the determination, the court should consider the optimal ways to:
 - a. Ensure ongoing evaluation and monitoring of practice and procedure in domestic violence cases;
 - b. Provide for trained staff and judicial officers;
 - c. Foster collaborative efforts to improve the administration of justice in domestic violence cases within the court and among other justice system agencies;
 - d. Promote procedural consistency; and
 - e. Enhance and increase accessibility to services for victims of domestic violence.

² A project under way at the Administrative Office of the Courts, the CCPOR is designed to make the full text of restraining and protective orders easily accessible to the judiciary, law enforcement, and other justice system partners.

Domestic Violence Prevention Act Restraining Orders

The task force circulated for comment draft recommended guidelines and practices for Domestic Violence Prevention Act (DVPA) restraining orders, focusing on those civil restraining orders issued by family courts in California. In some cases, juvenile and probate courts have issued DVPA orders. Additionally, civil restraining orders may be issued under other code sections, including Welfare and Institutions Code section 213.5.

Under the DVPA, a civil domestic violence restraining order can be a powerful tool to deter future violence, secure safe child custody and visitation arrangements, and provide temporary financial stability. However, a litigant must take numerous steps to secure and enforce a restraining order. Effective court practices play a crucial role in enhancing the ability of parties to obtain, understand, and comply with the orders. Additionally, courts need to ensure that these orders are issued in a timely manner, are accurate, and can be immediately entered into the California Law Enforcement Telecommunications System (CLETS) to assist in enforcement. Without focused attention on the development and implementation of effective court practices, courts can unwittingly be a barrier to instead of a facilitator of public safety.

The practices outlined below were developed from a review of national, state, and local publications; a review of existing court practices around the state; comments received through the public comment and hearing process; and discussions among members and staff of the task force.

The proposals address the restraining order process from the viewpoint of litigants, the court, and law enforcement with the goals of simplifying and streamlining procedures for litigants, improving communication within the court, increasing the availability of information to the judicial officer, and enhancing the enforceability of court orders.

Ultimately, the success of domestic violence restraining orders in reducing violence and increasing public safety depends on the efforts of California's network of public and private agencies. The proposals described here reflect that interdependency and encourage each agency to take steps to promote the courts' ability to improve the administration of justice.

Assistance for Parties (General)

1. ***Removal of barriers.*** Each court should review its practices and procedures generally and make changes designed to reduce barriers to court access for litigants in restraining order proceedings. Each court may consider working with community agencies in identifying barriers and developing practices.
2. ***Access to restraining orders.*** Courts should ensure that only those eligibility requirements required by statute or rule are imposed upon a litigant seeking to obtain a restraining order. To ensure public safety, any person can request a restraining order regardless of unrelated factors such as immigration status or alleged criminal conduct.

3. **Information/resources for the parties.** The court should inform the parties about resources that are available in restraining order proceedings in accordance with their requests and needs and under Family Code section 6343. That section requires courts, in consultation with local domestic violence shelters and programs, to develop a resource list of appropriate community domestic violence programs and services. The list must be provided to each applicant for a domestic violence restraining order. The resources should be available in English and other languages to the extent feasible and could include:
 - a. Legal services agencies and pro bono legal resources;
 - b. Child support services;
 - c. Administrative Office of the Courts (AOC) informational pamphlet and video;
 - d. Available victim-witness services or funding;
 - e. Appropriate referrals to community domestic violence programs and services, including batterer intervention programs;
 - f. Self-help services;
 - g. Other community services, including those providing immigration information.
4. **Legal services.** Each court should provide information to all parties about the availability of legal services and should explore options with the bar and other agencies to foster increased representation for parties in domestic violence restraining order cases.
5. **Family law facilitator/self-help center.** Additional funding should be provided for the family law facilitator or self-help center, if appropriate, to furnish services to all parties beyond those provided by the federally funded child support program. The facilitators and self-help centers should provide information and appropriate assistance to litigants on court practice and procedure in domestic violence cases. So that the parties have access to electronic domestic violence self-help software, facilitators and self-help centers should make every effort to make computers available for use by the parties in restraining order proceedings.
6. **Counseling.** Individuals seeking protection in domestic violence cases should not be ordered to attend counseling without careful consideration. Under existing law, a court may not order a protected party to obtain counseling without the consent of the party unless there is a custody or visitation dispute. (Fam. Code, § 3190.) In the event that the court orders counseling under Family Code section 3190, the court must make the requisite findings and should order separate counseling sessions under Family Code section 3192. Nonmandatory referrals to counseling or related services may be made and should be provided under the requirement of Family Code section 6343, which requires that courts develop resource lists for referrals to appropriate community domestic violence programs and services.
7. **Confidentiality.** Courts should (1) inform parties that most filed documents are public records and (2) provide information on how to safeguard certain kinds of information

such as addresses or confidential locations. (See for example, the Secretary of State's Safe at Home Program, www.ss.ca.gov/safeathome.)

Obtaining and Perfecting Orders

8. ***Emergency protective orders (EPOs)***. Each court should have a workable practice for obtaining EPOs to maximize accessibility. Each court should ensure that a judicial officer is available to law enforcement during both business and nonbusiness hours for review of applications for EPOs. Each court should also encourage and support law enforcement's use of the after-hours procedure for EPOs by using a duty judge system of rotation.
9. ***Reasonable and timely access to review of applications for temporary restraining orders***. Each court should have a mechanism for reviewing each application for a restraining order "on the same day that the application is submitted to the court, unless the application is filed too late in the day to permit effective review, in which case the order shall be issued or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court." (Fam. Code, § 6326.) Courts should develop procedures to (1) ensure timely access at convenient court locations so that travel to the appropriate courthouse will not unduly burden the party seeking review of the application and (2) develop electronic mechanisms such as fax, e-mail, or videoconferencing to facilitate prompt review of the application.
10. ***Notice in ex parte proceedings***. Courts should not have a blanket rule or policy regarding notice for every request for an ex parte restraining order. Notifying a proposed restrained person about an applicant's request for a restraining order can trigger a significant risk of harm to the applicant. As provided in Family Code section 6300, the court should determine *on a case-by-case basis*, depending on the circumstances, whether notice of an application for a temporary restraining order should be required, taking into account the level of danger to the applicant. In all cases, applicants should be referred to community services and should be advised of the National Domestic Violence Hotline (1-800-799-SAFE).
11. ***Right to hearing***. A jurisdictionally adequate petition for an ex parte temporary restraining order under the DVPA may not be summarily denied. The court must either (1) grant the temporary orders requested and set the matter for a noticed hearing or (2) defer ruling on the matter pending a noticed hearing, in which case the court should consider whether failure to make any of these orders would jeopardize the safety of the petitioner and children. (*Nakamura v. Parker* (2007) 156 Cal.App.4th 327.) When no temporary order is issued, some petitioners may be concerned that their safety will be compromised if the court sets the matter for a noticed hearing. Therefore, the court should develop a procedure so that the petitioner is informed that he or she may withdraw the petition without prejudice to refile it at another time.

12. **Background checks.** To enhance public safety, wherever possible each court should conduct timely criminal background checks on the restrained party and conduct checks for other restraining and protective orders, involving either party, that can be considered by the judicial officer, both at the temporary restraining order stage and at the hearing on the application, as described in Family Code section 6306. However, lack of sufficient resources makes it impossible for some courts to conduct these checks, and significant challenges are associated with accessing and navigating the California Department of Justice’s (DOJ) databases. Therefore, the DOJ should work with the courts to make records easily accessible and reduce the length of time needed to check records. Courts should access the CCPOR, the statewide database containing images of restraining and protective orders.³
13. **Service of process.** Each court should collaborate with law enforcement and processing services to ensure timely and effective personal service of process of restraining orders and entry of proof of service into DVROS.
14. **Preparation and provision of restraining orders.** The court should ensure that an order is prepared and provided as soon as possible to all parties who are present at the proceeding.
15. **Past acts.** In reviewing applications for temporary restraining orders, there should be no rigid time frame for determining what constitutes a relevant “past act of abuse.” Such determinations should be made on a case-by-case basis.
16. **Availability of child and spousal support orders.** In a DVPA proceeding when child or spousal support is requested and financial documentation is submitted, the court should consider the request and order appropriate support at the same time as the restraining order request is considered or as soon thereafter as possible to ensure safety. (Fam. Code, § 6341(a) and (c).) Each court should establish a cooperative relationship with the Department of Child Support Services and take reasonable steps to expedite the award of child and spousal support in domestic violence cases.
17. **Availability of custody and visitation orders.** In a DVPA proceeding when child custody and visitation are requested and appropriate documentation is submitted, the court should consider the request and order custody and visitation to a party who has established a parent-child relationship under Family Code section 6323, as appropriate, at the same time as the restraining order. (Fam. Code, § 6340.) The court must consider whether failure to make any of these orders may jeopardize the safety of the petitioner and the children for whom the custody or visitation orders are sought. Each court should take reasonable steps to expedite the determination of custody and visitation in domestic violence cases.

³ See footnote 2.

18. ***Additional protected persons.*** When the court issues a restraining order, it should consider whether the order should apply to other named family or household members if good cause is demonstrated. (Fam. Code, § 6320.)
19. ***Supervised visitation.*** There is a need for greater availability of affordable supervised visitation and safe exchange programs. As a result, every court should encourage the establishment of a facility or provider of supervised visitation and safe exchange services in the county so that in appropriate cases, each party to a restraining order proceeding who has children has access to supervised visitation and safe exchanges. To the extent feasible, the number of multilingual and multicultural programs should be increased.
20. ***Orders generally.*** The court shall consider the application for a DVPA restraining order and may issue all appropriate orders without requiring corroborating evidence. As long as the court does not issue a conflicting order, it should consider the application even when a criminal protective order (CPO) exists. This maximizes safety and enables the court to consider custody and visitation.
21. ***Residence-exclusion orders.*** When a court issues a residence-exclusion order, the court should consider implementing a protocol that allows the respondent to collect his or her belongings without violating the order.
22. ***Termination or modification of a restraining order.*** If a litigant requests termination or modification of a restraining order, the court should conduct a hearing to determine if the request is entirely voluntary and not a result of coercion or duress and to make sure the person making the request is in fact the protected party. The court should consider deferring ruling on the request to allow the protected person time to discuss the request for termination or modification with a support person.

Hearings and Services

23. ***Staffing.*** The court should assign and manage appropriate staff in domestic violence cases to perform the following duties:
 - a. Streamline procedures;
 - b. Promote safety in the courthouse;
 - c. Coordinate court processes and case information;
 - d. Provide information to the court regarding existing protective orders and orders in cases involving child custody or visitation;
 - e. Serve as liaison with law enforcement, treatment services, Children’s Protective Services, victim assistance, advocates, probation departments, and other relevant agencies; and
 - f. Participate as ethically appropriate in local family violence coordinating councils or court/community practice and procedure committees.

24. ***Court interpreters.*** Each court should provide interpreters in domestic violence cases, in family court services mediation sessions, and in self-help centers.⁴ Each court should analyze its calendaring mechanisms to maximize the availability of court interpreters in domestic violence cases.
25. ***Training for court interpreters.*** Each court should ensure that training for court interpreters includes information about the nature of domestic violence cases and the need for unbiased handling of interpretation in these cases. The AOC should provide support and curricula for developing the training.
26. ***Services.*** The court, in collaboration with community justice partners, should assess community resources, examine any gaps in resources, and inform appropriate officials accordingly, with the goal of increasing available resources for litigants in domestic violence cases.
27. ***Self-represented litigants.*** Each judge hearing domestic violence restraining order proceedings should conduct appropriate dialogue with self-represented litigants to clarify facts and explain the court's procedures as necessary in the specific case.
28. ***Scheduling hearings.*** The court should adhere to the statutory time periods for setting hearings on restraining orders, should endeavor to expedite these proceedings whenever possible to promote public safety, and should avoid unnecessary delays and continuances.

Court and Case Management

29. ***Local procedures.*** To the extent that a court promulgates policies or procedures relating to restraining order proceedings, the procedures should be in written form and made accessible to the public.
30. ***Calendar management.*** If a court determines that a dedicated DVPA calendar is not warranted in the jurisdiction, the court should ensure that:
 - a. There is a mechanism to identify all domestic violence cases to better provide services and staff; and
 - b. Domestic violence matters are given calendar priority to ensure safety and convenience of litigants.
31. ***Court coordination.*** Each court must develop a local rule, as required by rule 5.450 of the California Rules of Court, providing a procedure for communication among courts issuing criminal court protective orders and courts issuing orders involving child custody and visitation. Under rule 5.450, the local rule also must include a procedure for modification of a CPO in consultation with the court issuing a

⁴ Courts should access the Administrative Office of the Courts grant program to fund interpreters in these proceedings. The task force acknowledges that there is a lack of certified interpreters for some languages in some locations.

subsequent child custody and visitation order. The procedures should include methods for safeguarding confidential information and provide a mechanism for identifying related cases, orders, court dates, and information regarding children and for determining how to best provide appropriate information to judicial officers. The information should be integrated into the court's case management system.

32. ***Court communication.*** Each court should have a mechanism for internal court communication on practice and procedure in domestic violence cases suitable for the court size and caseload. For example, courts may conduct meetings of judicial officers with criminal, juvenile, and family law assignments.
33. ***Training.*** Each court should endorse and ensure periodic training for all court personnel and judicial officers who are involved in domestic violence cases appropriate to their assignments. The court should also regularly provide information to bench-bar groups about court practice and procedure relating to domestic violence cases.
34. ***Statistics.*** Each court should maintain domestic violence statistics, including the number of EPOs issued, temporary restraining orders requested and granted, orders granted after hearing, children involved, reissuances, and proofs of service filed. Court case management systems should support collection of this data.
35. ***Facility security.*** To handle those cases involving domestic violence, each court should develop reasonable safety procedures. These procedures should address, but are not limited to, the following: (1) making reasonable efforts to keep residential addresses, work addresses, and contact information—including but not limited to telephone numbers and e-mail addresses—confidential in all appropriate cases and on all appropriate documents; (2) ensuring that a trained security officer is present in the courtroom; (3) providing safe ways to depart from the courthouse, such as safe waiting areas, elevators, stairwells, hallways, entrances and exits, and parking; and (4) providing escorts for victims when needed and as feasible. Courts should consider the requirements of Government Code section 69920 et seq. and rule 5.215(i)(2) of the California Rules of Court when designing facilities.
36. ***CLETS/DVROS.*** As required by Family Code section 6380, each court should ensure that all required domestic violence restraining orders and proofs of service as defined under Family Code sections 6218 and 6320 are entered into the DVROS via CLETS within one business day and memorialized on mandatory Judicial Council forms. The statutory scheme contemplates that these orders should be entered into DVROS so that law enforcement agencies will have access to the orders, thus maximizing enforcement. Moreover, under federal law (see generally 18 U.S.C. § 44), any order that purports to prohibit specific threatening conduct carries with it mandatory firearms restrictions that should not be obviated by a state court or by stipulation of the parties.

37. ***Non-CLETS domestic violence restraining orders.*** Courts should decline to approve or make domestic violence⁵ restraining orders that cannot be entered into DVROS or CLETS, commonly referred to as “non-CLETS” orders.

⁵ Domestic violence in the civil context is defined as abuse or conduct that is described in Family Code sections 6203 and 6320 that has been perpetrated against an intimate partner, as defined by Family Code section 6211.

Firearms Relinquishment

California and federal law bars persons subject to restraining orders, as well as defendants convicted of certain crimes, from possessing or purchasing firearms or ammunition,⁶ and compliance with these laws can reduce domestic violence homicides.⁷ Court orders to relinquish firearms, however, are not self-implementing. Persons protected by restraining orders may erroneously believe that when the court orders the restrained person to relinquish firearms, either law enforcement or the courts will take steps to ensure that the order is followed. But under California law, the onus is on the restrained person to comply by relinquishing firearms to law enforcement or selling them to a licensed gun dealer.⁸ Experts report that some gun owners are extremely reluctant to comply.⁹

The following proposals were developed by the task force from a review of national and state publications; task force staff discussions with law enforcement officials; and a colloquium held in April 2006 by the California AOC involving judicial officers and court staff, justice system entities, and domestic violence victim advocates. The proposals reflect the limited reach of the courts, particularly in family law cases.

Clearly, implementation of these proposals and, for that matter, enforcement of firearm prohibition laws will require the concerted actions of law enforcement officers, prosecutors, the defense bar, the courts, probation and parole officers, and victim advocates. It is important to note, however, that California's courts are severely circumscribed by legal and practical considerations in their ability to ensure that restrained persons do not possess or have access to firearms or ammunition.

Ultimately, public safety is best served when law enforcement and the entire justice system take immediate action to remove firearms, whether registered or not, from the hands of a person who is statutorily barred from possessing them. The courts have a necessary and important role in achieving this goal, but because they are not investigative or enforcement agencies, the courts must rely on justice system entities to provide necessary information and to enforce compliance with firearm relinquishment orders.

It is with these factors in mind that the task force proposes the following guidelines and practices.

⁶ See, for example, Family Code section 6389; Penal Code section 136.2; 18 U.S.C. 922(g)(8); and 18 U.S.C. 922(g)(9).

⁷ Saltzman, L. et al. "Weapon involvement and injury outcomes in family and intimate assaults" (1992) *Journal of the American Medical Association* 267(22):3,042–3,047.

⁸ See section 6389(c)(2) of the Family Code.

⁹ Testimony provided at the task force public hearing on March 14, 2007.

Communication and Education

1. ***Communication with local justice system entities.*** Each court should regularly communicate with appropriate local justice system entities, including law enforcement, prosecutors and defense attorneys, domestic violence victim advocates, and the bar, to develop and monitor local firearm relinquishment protocols and procedures.
2. ***Communication with state justice system entities.*** The AOC should establish an ongoing working group with appropriate statewide justice system entities to communicate about and support improvements to statewide and local firearm relinquishment forms, protocols, and procedures.
3. ***Identification of law enforcement and gun dealer policies.*** Courts should make reasonable efforts to learn about the existence and location of local gun dealers and about local law enforcement's relinquishment policies and gun dealers' sale policies, including fees for storage.
4. ***Court access to state and federal firearms databases.*** The DOJ should make every effort to encourage and improve court access to state and federal firearms databases.

Legislation and Rules of Court

5. ***Firearms search in Automated Firearms System (AFS) conducted by the prosecutor.*** Legislation should require prosecutors to perform a database search of the defendant's registered firearms and provide that information to the court as currently set forth in Penal Code section 273.75.
6. ***Firearms search in AFS conducted by the court.*** Family Code section 6306 should be amended to provide express authority for the courts to search the firearms database. Funding should be made available to the courts for implementation.

Procedures

Emergency protective orders

7. ***Court inquiry.*** Prior to issuing an EPO under Family Code section 6240 et seq., the on-call judge should ask the law enforcement officer who is requesting the order if the officer has inquired of the victim, alleged abuser, or both, whether a firearm is present at the location. (Pen. Code, § 13730.)¹⁰

Criminal court protective orders

8. ***Firearms inquiry conducted by the prosecutor in conjunction with law enforcement.*** At or before the time of arraignment, the prosecutor and law enforcement should conduct a firearms search on the defendant through AFS and any other appropriate databases and sources and provide the results to the court at arraignment.¹¹ Any inability to provide the court with timely information should not delay the issuance of an order. If the court finds reason to believe that the defendant owns or possesses a firearm, the court should instruct the prosecutor to make reasonable efforts to notify the victim or witness of the court's finding.¹²
9. ***Oral advisement of firearm restrictions.*** The court should orally advise the defendant about state and federal firearms and ammunition prohibitions and the requirement for timely relinquishment.

¹⁰ Penal Code section 12028.5 requires a law enforcement officer to take temporary custody of any firearm or other deadly weapon in plain sight or discovered as the result of a consensual or other lawful search as necessary for the protection of the peace officer or other persons present, when the officer is at the scene of a domestic violence incident involving a threat to human life or a physical assault. Moreover, if the court issues an EPO, the law enforcement officer who requested the order is required to serve the EPO on the restrained person, if the restrained person can reasonably be located, and then use every reasonable means to enforce the EPO, including firearms restrictions. (See Fam. Code, §§ 6271, 6272; Pen. Code, § 12021(g)(2).)

¹¹ Section 273.75 of the Penal Code currently requires the district attorney or prosecuting city attorney to perform a database search of the defendant's history, including but not limited to prior convictions for domestic violence, other forms of violence or weapons offenses, and any current protective or restraining order. The information shall be presented for consideration by the court (1) when setting bond or when releasing a defendant on his or her own recognizance and (2) upon consideration of any plea agreement. The databases include the Violent Crime Information Network, the Supervised Release File, state summary criminal history information maintained by the DOJ, the Federal Bureau of Investigation's nationwide database, and locally maintained criminal history records. The statute should be revised to require a search in the AFS database.

¹² Section 11106(d) of the Penal Code authorizes prosecutors to release AFS information to victims of domestic violence in some cases.

10. **Set review hearing.** The court should ask the prosecutor if he or she has reason to believe that the defendant owns or possesses a firearm or ammunition. If the court finds there is reason to believe that the defendant owns or possesses a firearm or ammunition, the court should set a review hearing within 48 hours of service of the protective order on the defendant to determine whether a relinquishment or sale receipt was filed. (Code Civ. Proc., § 527.9.) The court may wish to set the review hearing within 24 hours of service when logistically feasible. The court should order the restrained person to personally appear at the review hearing unless a sale or relinquishment receipt is filed within the statutory time frame.¹³ If the restrained person indicates under oath that he or she no longer owns or possesses any firearms that are entered in his or her name in the AFS database, the court should order the restrained person to submit form FD 4036, *Notice of No Longer in Possession* (NLIP), to the DOJ. The court should order the restrained person to submit a report of an allegedly lost or stolen firearm to local law enforcement and present proof of the report to the court. When the court has reason to believe that the defendant still owns or possesses a firearm or ammunition, even if the restrained person has filed a receipt, NLIP, or other type of sale or relinquishment notice, the court should consider holding a review hearing.
11. **Appropriate orders at the hearing.** If no receipt, NLIP, or other notice has been filed or provided and the defendant appears in court at the scheduled hearing, the court should hold a hearing on the firearms issue and (1) issue a search warrant if one is requested, provided the court finds probable cause, (2) increase bail, (3) revoke release on own recognizance (OR), or (4) set a probation revocation hearing. If no receipt, NLIP, or other notice has been filed or provided and the defendant does not appear for the court hearing, the court should issue a no-bail bench warrant.

Civil court restraining orders

12. **Database search for registered firearms conducted by the court.** The court (through sheriff, court, or pretrial services) should conduct a firearms search on the proposed restrained person through AFS or another appropriate database prior to issuing a restraining order (including a temporary restraining order). However, failure or inability to conduct the firearms search should not delay issuance of an order.
13. **Note of reported firearms on restraining order.** If firearms, whether registered or not, are reported to the court through an AFS database search or by the protected party, the court should so indicate on the temporary restraining order and order after hearing.
14. **Oral advisement about firearm restrictions.** The court shall inform parties of the terms of the restraining order, including notice that the restrained person is prohibited

¹³ This proposal would necessitate an evidentiary hearing to determine whether the defendant owns or possesses a firearm. The defendant could invoke the Fifth Amendment right not to incriminate himself or herself.

from owning, possessing, purchasing, receiving, or attempting to own, possess, purchase, or receive a firearm or ammunition, including notice of the penalty for violation. (See Fam. Code, § 6304.)¹⁴

15. ***Development of Failure to Relinquish or Sell Firearms notification form.*** Upon the court's issuance of a DVPA order at a hearing where the respondent has been provided notice and an opportunity to be heard, the court should determine whether the restrained person owns or possesses firearms or ammunition. If the court finds that the restrained person does own or possess a firearm or ammunition, the court should notify law enforcement for appropriate action.¹⁵ The AOC, in consultation with the DOJ and other agencies as appropriate, should develop a form and procedure to ensure the timely notification of law enforcement entities about the court's finding.

Forms

16. ***Firearm relinquishment information sheet.*** The Judicial Council of California has developed a statewide information sheet to explain to restrained persons how to safely and legally relinquish or sell firearms when so ordered. To encourage the widest possible use of this form, the AOC should revise the form so that it is locally modifiable and can be used with all types of protective orders, as well as for criminal sentencing following convictions for offenses that require firearm relinquishment.¹⁶ The form should include information about the requirement to file a relinquishment or sales receipt with the court, and it should explain the NLIP form and the method to report a lost or stolen firearm. The court should provide the information sheet to all persons who are prohibited from owning or possessing firearms or ammunition because of a court order or criminal sentence.

¹⁴ The firearms prohibition of Family Code section 6389(a) “automatically activates . . . when a court imposes or renews any of the enumerated forms of protective orders.” (*Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275, pp. 1,294–1,295.) The court is “[unable] to eliminate the firearm restriction while a protective order remains in place” except in very limited circumstances that are specifically authorized by Family Code section 6389(h). (*Id.* at 1,300.)

¹⁵ This practice is intended for a DVPA-noticed hearing that is held after the court has issued temporary restraining orders on *Temporary Restraining Order and Notice of Hearing* (form DV-110). Where the court has not issued temporary orders but has issued restraining orders only after a noticed hearing, the court (at the noticed hearing) should determine whether the restrained person owns or possesses a firearm or ammunition. If the court finds that the restrained person owns or possesses a firearm or ammunition, the court should set a compliance hearing to determine whether the restrained person has sold or relinquished the firearm or ammunition. If the restrained person does not comply with the court's relinquishment order, the court should notify law enforcement for appropriate action.

¹⁶ See Judicial Council form, *What Do I Do With My Gun or Firearm? (Domestic Violence Prevention)* (form DV-810).

17. ***Revision of restraining and protective order forms to add check box for reported firearms.*** All temporary and permanent restraining and protective orders should indicate whether firearms were reported and whether the report was obtained through a database search or from a protected person's declaration or other information presented at a hearing.

18. ***Revision of EPO form to indicate reported firearms.*** The EPO form should be revised to include a check box for law enforcement to indicate whether firearms were reported by any person at the scene (under Pen. Code, § 13730) or discovered in a database search.

**Access to and Entry of Orders Into the
Domestic Violence Restraining Order Systems (DVROS)/
California Law Enforcement Telecommunications System (CLETS)**

Courts are required either to transmit criminal and DVPA restraining orders to a local law enforcement agency or to directly enter the orders into DVROS within one business day. (Fam. Code, § 6380; Pen. Code, § 136.2.) DVROS is a statewide database maintained by the DOJ that is designed to store restraining and protective order information. DVROS is one of many databases housed in CLETS, and when approved by DOJ, it is accessible by law enforcement personnel, court personnel, and other appropriate agencies 24 hours a day, seven days a week.

The DOJ controls access to CLETS and thus to DVROS, and each superior court must apply to the DOJ for access. Currently, only seven trial courts have direct entry access to DVROS via CLETS. Early in the task force's work, members of the task force expressed concerns about the arduous application process. This process has been somewhat streamlined since the AOC obtained approval from the DOJ to access DVROS and other CLETS databases. However, each court is still required to submit an application requesting access via the AOC's portal. To date, four courts have gained access to DVROS/CLETS in this manner. The AOC will continue to help facilitate the application process to reduce processing time.

The 2005 report from the California Attorney General's Task Force on Local Criminal Justice Response to Domestic Violence, *Keeping the Promise: Victim Safety and Batterer Accountability*, notes that law enforcement cannot enforce a criminal or DVPA restraining order if it cannot determine at the time of an alleged violation whether the order is still in effect. Thus it is imperative that all orders are entered into DVROS accurately and in a timely manner. Because few courts have access to DVROS, the courts, local law enforcement, prosecutors, and probation departments must work together to ensure that restraining orders are entered into DVROS.

In response to the Attorney General's task force report, on June 21, 2006, the AOC hosted a CLETS Access Forum. This forum provided an opportunity for the courts entering restraining orders to demonstrate their individual operations and to explain the obstacles, challenges, and achievements they experienced during the process of obtaining CLETS approval. To maintain a representative balance, additional small, medium, and large courts were invited. Each participating court was encouraged to send a team consisting of the executive officer and representatives from information systems and operations. Information was distributed to the program participants about the role of the AOC in providing technical assistance to the courts interested in improving CLETS access as well as the long-term objective of automating the process of entering orders into CLETS via the case management system.

At the forum, the Superior Court of Orange County presented a Web-based restraining order registry that it has developed. The task force found this registry of particular interest, and as a result, the AOC began an inquiry to determine whether a similar registry

could be launched statewide. The AOC is now developing the California Courts Protective Order Registry (CCPOR), a centralized system designed to allow bench officers and law enforcement to view protective and restraining orders and related information. Many other courts have developed countywide restraining order registries, some components of which will be incorporated into the statewide system.

The presentations, small group discussions, and large group plenary sessions in the CLETS Access Forum served as a foundation for the proposals set forth below, which are presented as immediate, interim, and long-term goals. These goals encompass the vast array of ideas, concepts, and needs as discussed by the courts. Courts are encouraged to adopt as many goals as necessary for their operational needs.

Immediate Proposals

1. ***Access to CLETS.*** Each court must have access to the DVROS database and to other databases within CLETS, such as AFS and the firearms registry, as deemed necessary by the court or as required by statute for the purpose of performing data searches and to ensure compliance with rule 5.450 of the California Rules of Court.
2. ***Needs assessment.*** Each court should evaluate current procedures, protocols, and timelines for processing restraining orders, from the granting of the order to its entry into DVROS, and whether the court enters the orders directly or transmits the orders to law enforcement for entry into DVROS. The court should ensure that all orders are being entered into DVROS promptly and are consistent with all statutory requirements. If delays or inconsistencies are discovered, the court should take all necessary steps to eliminate them by enhancing procedures and protocols. Courts should periodically review the assessments to ensure that procedures and protocols remain current.
3. ***Communication: Court and justice partners.*** Courts should hold regular meetings with local law enforcement and other related justice partners to monitor procedures and to review operations to ensure consistency and accountability in handling restraining orders. The courts and the law enforcement agencies responsible for entering the orders into DVROS should develop plans to ensure that orders, proofs of service, and modifications are entered into DVROS promptly and are consistent with all statutory requirements.
4. ***Communication: AOC and DOJ.*** The AOC and the DOJ should establish a user group that conducts regular meetings to review policy and practices regarding entry of restraining orders. This review team could also assist in establishing standards for training, audit practices, and implementation.
5. ***Implementation standards.*** The AOC and local courts should recommend that the DOJ streamline the CLETS application process and establish implementation standards statewide to eliminate barriers to court access to DVROS.

6. ***Audit standards.*** Courts that have access to CLETS are subject to periodic audits by the DOJ to monitor how the court safeguards the database information. The AOC and local courts should recommend that the DOJ standardize CLETS audit procedures statewide.
7. ***Training standards.*** The AOC and local courts should recommend that the DOJ establish a training program unique and specific to the needs of court staff who handle restraining orders. Local courts should ensure that staff receive adequate training, including access to CLETS-related training and informational Web sites.
8. ***Data collection.*** The AOC should provide the courts with guidelines for collecting domestic violence statistics. Each court should maintain domestic violence statistics to better inform the justice system and to support the development of domestic violence policy. Statistical information should be available regarding the number of EPOs issued, the number of temporary restraining orders requested and granted, the number of restraining orders granted after hearing, the number of children involved, proofs of service filed, and the number of reissuances. The AOC should encourage participation in its Judicial Branch Statistical Information System (JBSIS), and design of the California Court Case Management System (CCMS) should incorporate the required statistical information.

Interim Proposals

9. ***Restraining order registry.*** Courts are encouraged to participate in the CCPOR when it becomes available.¹⁷ This will provide the judicial branch and law enforcement with the ability to access and view full-text orders issued throughout the state. CCPOR should be included in the design of the CCMS.
10. ***Computer-generated orders.*** The AOC should continue to explore the design of computer-generated orders that will be able to interface with the CCMS, and it should also evaluate existing forms for ease and accuracy of data entry. Local courts are encouraged to explore the feasibility of using the Judicial Council's Family and Children's Court Technology (FACCTS) to produce computer-generated orders after hearing.
11. ***Service of orders.*** Using a collaborative process with justice system partners, each court should evaluate ways to improve procedures for prompt and effective service of orders and take steps to facilitate prompt service and entry of service into DVROS.

Long-Term Proposals

12. ***Integration with CCMS.*** The AOC and local courts should work together to establish a seamless process from the point that the order is granted to its entry in DVROS, using an automated process that is integrated into the CCMS. AOC staff should work

¹⁷ See footnote 2.

together to ensure that relevant domestic violence information is included in the CCMS data elements.

Domestic Violence Criminal Procedure

The June 2005 report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence, entitled *Keeping the Promise: Victim Safety and Batterer Accountability*, outlines a series of problematic practices and recommendations relating to the adjudication of criminal domestic violence cases. Among these are the following highlights, which point out systemic problems but also pertain primarily to court practice and procedure:

- Arraignment, plea, and sentencing without prosecutors in attendance;
- Sentences that appear to be out of compliance with Penal Code section 1203.097 relating to mandatory terms and conditions of probation;
- Widespread apparent failure to complete batterer intervention programs; and
- Asserted inadequacy of monitoring and follow-up regarding compliance with terms and conditions of probation.

The task force looked at the entirety of criminal procedure in domestic violence cases, from filing through postconviction proceedings. The following proposals are the result of the task force inquiry. They seek to address issues raised in the 2005 report and to improve practices in these cases generally. The proposals include mandatory provisions required by statute or rule as well as advisory practices. The proposals, taken as a whole, form a useful chronology of required and aspirational practices for the criminal law judicial officer in domestic violence cases.

We note that implementation of the statutory framework underlying Penal Code section 1203.097 depends on adequate funding and full functioning of county probation departments as necessary to ensure the defendant's opportunity to successfully complete probation. Because the successful completion of probation directly and positively affects public safety and the safety of domestic violence victims, the presence of fully funded probation services in each jurisdiction is a necessary element of an effective criminal justice response to domestic violence. Although neither the Judicial Council nor the task force has direct authority for the funding of probation services, the task force submits that without increased and adequate funding of this vital component, full accountability for domestic violence offenders placed on probation will remain elusive.

Recommended guidelines and practices in the area of criminal procedure follow.

Administration Procedures

1. ***Administration of criminal domestic violence cases.*** Each court should ensure that the following administrative procedures are followed with respect to domestic violence cases:
 - a. The judicial review of the bail schedule should include consideration of issues relating to domestic violence;
 - b. The court should collaborate with the chief probation officer to ensure that the functions of probation delineated in Penal Code section 1203.097 are adequately performed, including duties to monitor the defendant's compliance with the

terms and conditions of probation and to certify batterer intervention programs;
and

- c. In conjunction with the duties enumerated in rule 227.8 of the California Rules of Court, the court should ensure that issues relating to practice and procedure in domestic violence cases are identified and discussed in regular meetings with criminal justice agencies. Additional participants in the regular meetings should include both victim advocacy organizations and local batterer intervention programs to ensure communication and consultation between the court and the organizations involved in probation of convicted batterers.
- d. In accordance with Penal Code section 136.2(e)(1), the court's records of all criminal cases involving domestic violence shall be marked to clearly alert the court to consider issuance of a protective order on its own motion.

Pretrial

Bail release considerations

2. ***Bail schedule.*** Every county must adopt and review a bail schedule. (Required by Pen. Code, § 1269c.)
3. ***Standardized procedure.*** To enhance public safety in domestic violence cases, local courts should work with probation, pretrial services, and law enforcement agencies to develop a standardized procedure for setting bail so that the court receives the following information: (1) requests for increased bail, (2) indication of relationship between defendant and victim, (3) indication of whether a firearm was involved, (4) description of weapons seized, (5) sources of information regarding crime and firearms present, and (6) indication of whether children were involved or were witnesses.
4. ***Law enforcement policy.*** For all domestic violence arrests, law enforcement should adopt a policy that does not allow own recognizance (OR) or cite and release procedures unless a court hearing is conducted. (Pen. Code, § 1269c, requests for increased bail.)

Hearing procedures

5. ***Hearing purposes.***
 - a. Under Penal Code section 1270.1(a), at arraignment or at any other stage of the proceedings, bail must not be reduced and release on OR must not be granted without a hearing for any person charged with:
 - Penal Code section 136.1: Intimidating a witness;
 - Penal Code section 243(e)(1): Battery against a spouse, cohabitant, person who is the parent of the defendant's child, noncohabitating former spouse, fiancée, or a person with whom the defendant currently has or has previously had a dating relationship;
 - Penal Code section 262: Spousal rape;
 - Penal Code section 273.5: Corporal injury;

- Penal Code section 273.6: Knowing violation of a protective order under specified circumstances;
 - Penal Code section 422: Felony violation of a threat to an immediate family member; or
 - Penal Code section 646.9: Stalking.
- b. The prosecution must be afforded two court days' written notice of the hearing and an opportunity to be heard. (Pen. Code, § 1270.1(b).)
 - c. If bail is otherwise set than is provided in the bail schedule, the record must reflect the reasons for the court's decision and address the issue of threats to the victim and victim safety. (Pen. Code, § 1270.1.)
6. **Local variations.** The timing and procedures for setting bail and the bail amount may vary from jurisdiction to jurisdiction, but the court should nevertheless obtain all relevant information.
 7. **Appearance within 48 hours.** If bail is posted, the defendant should be directed to appear within 48 hours for arraignment.

Arraignment

8. **Defendant's appearance.** Defendant's presence at arraignment is mandatory. (Required by Pen. Code, § 977.)
9. **Procedures.** Practices recommended to assist the court in determining whether to issue a CPO and in setting bail include the following:
 - a. Defense counsel and prosecution should be present at arraignment;
 - b. All probation violations should be calendared with the arraignment to ensure that the court revokes probation as appropriate;
 - c. Prosecution, OR services, or the probation department, as appropriate, should contact the victim prior to arraignment;
 - d. Gun ownership should be determined from DOJ records;
 - e. Issuance of a CPO should be considered; and
 - f. Firearms relinquishment should be ordered. (Pen. Code, § 136.2(7)(B).)

Setting bail

10. **Bail sufficient to ensure appearance and protect victim.** If the defendant is arrested for violating a domestic violence restraining order, the court may deny bail or set bail at any amount that it deems sufficient to ensure the defendant's appearance or the protection of the victim or the victim's family members. (Pen. Code, § 1269c.)
11. **Notice to prosecutor.** When a defendant charged with Penal Code section 646.9 is released on bail, the sheriff must notify the domestic violence unit of the prosecutor's office in the county where the victim resides. (Pen. Code § 646.9(a).)

12. **Notice to victim.** If there is a request to lower bail, the prosecutor must make all reasonable efforts to notify the victim, and the victim is entitled to attend the hearing. The court should inquire whether the prosecutor has been successful in notifying the victim. (Pen. Code, § 646.93(b).)
13. **Additional conditions.** The court may consider imposing additional conditions. For example:
 - a. Defendant cannot initiate contact with the victim;
 - b. Defendant cannot initiate contact with the children;
 - c. Defendant must not knowingly go within a specified distance of the victim or his or her workplace or home;
 - d. Defendant must not knowingly go within a specified distance of the children's school;
 - e. Defendant must not possess a firearm;
 - f. Defendant must obey all laws;
 - g. Defendant may be obligated to wear an electronic monitoring device;
 - h. Defendant must notify the court of his or her address and telephone number at home and work (Pen. Code, § 646.93(c));
 - i. Defendant must refrain from the use of alcohol or other drugs; and
 - j. Defendant must report to the court all law enforcement contacts.
14. **Factors in setting, modifying, or denying bail.** The court should consider the following factors:
 - a. Seriousness of offense charged;
 - b. Defendant's character (previous criminal record);
 - c. Probability of defendant appearing at hearing or trial;
 - d. Alleged threats to the victim or to a witness to the crime charged;
 - e. Alleged use of a firearm or other deadly weapon in the commission of the crime charged; and
 - f. Alleged use or possession of a controlled substance by the defendant. (Pen. Code, § 1269b.)
15. **Relevant information.** Whenever bail is set, reduced, increased, or denied, the court should attempt to obtain and review all relevant information. This includes:
 - a. All other pending cases, including probation violations as a result of this case;
 - b. Rap sheet and probation or parole status;
 - c. Existing and previously issued protective or restraining orders where the defendant is the restrained party;
 - d. Any prior failures to appear;
 - e. Statements by victims;
 - f. Whether children were present or if there are visitation issues;
 - g. All information about the status of family, juvenile, probate, or other court orders that may exist;
 - h. Firearms registry information from AFS;
 - i. Prior unreported incidents of domestic violence; and
 - j. Use of alcohol or drugs or prior history of mental illness.

Release on own recognizance (OR)

16. ***Investigative report.*** In all cases involving violent felonies, if there is an investigative staff, a written report is required to be given to the court concerning outstanding warrants, any prior failures to appear, the criminal record of the defendant, and the defendant's residences during the last year. (Pen. Code, § 1318.1.) Funding for such staff should be provided.
17. ***Reasons for deviation from schedule.*** If bail is set in an amount other than that provided for in the bail schedule, the record must reflect the reasons for the court's decision.

Issuing CPOs pretrial

18. ***Grounds for order.*** A stay-away order should be issued when it is shown that there is good cause to believe that harm to, intimidation of, or dissuasion of a victim or witness has occurred or is likely to occur. The order should be issued on the required Judicial Council form (CR 160). (Pen. Code, § 136.2.) (Note that in *People v. Stone* (2004) 123 Cal.App.4th 153, the court required additional evidence that a victim or witness had been intimidated or dissuaded from testifying or that there was a likelihood that it would occur. It is not clear whether this would apply in a case involving a domestic violence crime. Although *People v. Stone* may be distinguishable in domestic violence cases, the question has yet to be addressed in a published opinion.)
19. ***Reasonable restrictions.*** The court must consider issuing protective orders on its own motion. The court may impose reasonable restrictions, including restricting the defendant's access to the family residence and barring communication by the defendant or defendant's agent with the victim, except through an attorney. (Pen. Code, § 136.2(d).)
20. ***No-contact orders.*** No-contact orders may be issued in domestic violence cases as a condition of release on OR and as an independent order. (Pen. Code, §§ 1275, 1318 (a)(2), or 136.2.)
21. ***Additional considerations.*** In addition to the considerations listed above in "Setting bail," the court should consider the following:
 - a. Ascertain whether the defendant has any firearms;
 - b. Determine if the CPO conflicts with the family court order and advise the defendant that the criminal order controls;
 - c. Serve the CPO on the defendant and the victim, if present, in open court. If the protected party is not present in court, the court should request the prosecutor to mail a copy of the order to the protected party; and
 - d. Advise the defendant that violation of the CPO may result in additional charges and in immigration consequences.

Trial

Trial setting

22. ***Case management.*** After arraignment, the court should set a pretrial conference, at which the court should consider the following:
- a. Settlement;
 - b. Issuance of a stay-away order under Penal Code section 136.2 if there have been new threats or intimidation;
 - c. Changes in bail, if appropriate;
 - d. Any new information disclosed by counsel; and
 - e. Setting the case for preliminary hearing or misdemeanor jury trial.

Continuances

23. ***Good cause.*** Good cause for continuance in domestic violence cases includes unavailability of the prosecutor because of a conflict with another trial, preliminary hearing, or motion to suppress. The continuance must be limited to a maximum of 10 additional days. (Pen. Code, § 1050(g)(2).)
24. ***Facts supporting good cause.*** The court must state on the record facts constituting good cause for a continuance. (Pen. Code, § 1050(f).)
25. ***Continuances are discouraged.*** Domestic violence cases should have high priority. Continuances are strongly discouraged, and motions for continuances must comply with the requirements of Penal Code section 1050.

Dismissal/Refiling

26. ***Refiling within six months.*** If the court dismisses a misdemeanor domestic violence case because the victim failed to appear in response to a subpoena, the case may be refiled within six months. This section may be invoked only once in each action. (Pen. Code, § 1387(b).)

Evidentiary issues

27. ***Confidential communications.*** Communications between the victim and the domestic violence counselor are confidential. The following factors are to be considered by the court to determine whether a person qualifies as a domestic violence counselor:
- a. Is the person: employed by an organization under Welfare and Institutions Code section 18294?
 - b. Does the person have any of the following:
 - Master's degree in counseling or a related field;
 - One year of experience in counseling (a minimum of six months must be in domestic violence counseling);
 - Credentials as a psychotherapist under Evidence Code section 1010; or
 - Experience as an intern, trainee, or other person with a minimum of 40 hours of domestic violence training under someone with a master's degree in counseling or a related field or someone who has one year of counseling

experience, of which a minimum of six months is in domestic violence counseling. (Evid. Code, § 1037–1037.7.)

28. ***Evidentiary exclusion of privileged information.*** At the trial or preliminary hearing, the court may exclude privileged information from a domestic violence counselor on its own motion if neither the witness nor the party can claim the privilege. (Evid. Code, § 916.) The court should ask the prosecutor if there is any undisclosed statement for which the privilege is asserted. If the victim has not authorized the prosecutor to assert the privilege or is not present to make the assertion, the prosecutor can assert the privilege under Evidence Code section 916. (Evid. Code, § 1040(b)(2).)
29. ***Burden of proof.*** The claimant of a privilege has the burden of proving (a) the existence of the relationship, (b) standing to claim the privilege, and (c) that the offered evidence is a confidential communication within that relationship. (Evid. Code, § 1037.)
30. ***Disclosure prohibited.*** Disclosure of the address or telephone number of victims and witnesses is prohibited. (Pen. Code, § 1054.2.)
31. ***Special needs.*** The court should ensure that the special needs of certain victims or witnesses are taken into consideration. Examples might include the needs of the elderly, children, or dependent adults.

Discovery

32. ***Medical records.*** In addition to the requirement that the prosecutor turn over all possibly relevant evidence to the defense, any medical record of the victim or defendant related to the domestic violence is discoverable in a domestic violence criminal case. (Pen. Code, §§ 1054–1054.8; Evid. Code, § 998.)
33. ***Protocols for access to information.*** Disclosure to the defendant of the address and contact information of the victim or witness is prohibited. Under Penal Code section 964, courts are to develop protocols with local law enforcement regarding restricting access to victim and witness personal identifying information contained in police reports filed with the courts. (Pen. Code, §§ 841.5(a), 964, and 1054.2.)

Jury selection in domestic violence cases

34. ***Larger juror panel.*** The court should consider calling a larger juror panel than in other types of cases because many potential jurors in domestic violence cases may have been victims of or witnesses to domestic violence, or their family or close friends may have been victims or witnesses.
35. ***Juror privacy.*** The court should respect the privacy of jurors in voir dire. For example:
 - a. The option of being questioned on the record but outside the presence of other jurors should be offered;

- b. Jurors should be informed that questionnaires, transcripts, and juror records are not confidential unless sealed by court order;
- c. For juror safety, the court should not release juror addresses; and
- d. The court should refer to jurors by number rather than by last name.

Victims

- 36. ***Victim's right to a support person.*** The alleged victim is entitled to have a support person or family member present at the hearing. (Pen. Code, §§ 868, 1102.6.)
- 37. ***Victim's right to be present.*** The victim has a limited right to be present at all stages of the criminal proceedings except when subpoenaed as a witness. (Pen. Code, § 1102.6(b)(1).)
- 38. ***Victim protections.*** The court should consider applying the statutory protections available to sexual assault victims to domestic violence cases involving sexual assault charges. If the court does apply these protections, it should state its reasons for doing so on the record.
- 39. ***Hearsay evidence.*** Each court should be cognizant of the limitations of hearsay evidence under the United States Supreme Court opinion in *Crawford v. Washington* (2004) 541 U.S. 36. Under *Crawford*, statements are generally inadmissible if the declarant is not present, if the statement is “testimonial,” and if the victim has not been previously cross-examined. The California Supreme Court has accepted review for numerous cases addressing hearsay issues under *Crawford*.
- 40. ***Testimony of victim.*** If a victim is reluctant to testify, the court should attempt to discover the reasons for the victim's reluctance and to determine whether the victim has been coerced or intimidated. To assist in this process, the court should consider the strategies and questions outlined in the *California Judges Benchbook: Domestic Violence Cases in Criminal Court* (3rd ed., §§ 4.24 and 4.25, pp. 84–86).

Compelling participation or testimony

- 41. ***Contempt.*** The first time a domestic violence victim refuses to testify in a case, the victim cannot be incarcerated for contempt of court. If the court holds a domestic violence victim in contempt for refusal to testify, the order must be stayed pending filing of a petition for extraordinary relief to determine the lawfulness of the court's order. Such orders are given a three-day stay of execution. (Code Civ. Proc., § 128(e).) The court can also order 72 hours of domestic violence counseling or “appropriate community service.” (Code Civ. Proc., § 1219(c).)

Dispositions

Sentencing

- 42. ***Fines.*** Courts must consider whether the defendant is able to pay a fine or restitution to the victim or to the Restitution Fund as a condition of probation, and the amount thereof. (Pen. Code, § 1203(b)(2)(D)(ii).)

43. **Restitution.** Restitution to the victim is primary even if the defendant is ordered to repay other costs such as public defender and probation fees. (Pen. Code, § 1202.4(f)(2).)

Probation

44. **Probation.** If the defendant is convicted and placed on probation for conduct perpetrated against any of the persons defined in Family Code section 6211 and the conduct could be enjoined under Family Code section 6320, the court must impose all of the terms and conditions of probation set forth in Penal Code section 1203.097. Persons defined under Family Code section 6211 are:

- a. Spouse or former spouse;
- b. Cohabitant or former cohabitant;
- c. Person the defendant is dating or has dated;
- d. Mother or father of the defendant's child;
- e. A person related by blood or marriage within the second degree; or
- f. A registered domestic partner or former registered domestic partner (See Fam. Code § 297.5).

45. **Discretionary terms and conditions of probation.** The court also may consider imposing additional terms and conditions of probation, such as:

- a. Prohibiting the use of alcohol and other drugs;
- b. Permitting law enforcement to search and seize all firearms in the defendant's possession; and
- c. Requiring attendance at parenting classes.

46. **Oral advisement.** At the time a defendant is convicted and placed on probation, the court should orally advise the defendant and explain the specific terms and conditions of probation, including all firearms restrictions. This should occur whether or not the defendant has signed a written probation agreement.

47. **Batterer's intervention programs.** A 52-week intervention program must meet the following requirements:

- a. The program must be approved by the probation department;
- b. The defendant must enroll within 30 days of sentencing or release date;
- c. The program must provide periodic progress reports at least every 3 months;
- d. The defendant must complete the program within 18 months of enrollment;
- e. The defendant can have only three unexcused absences; and
- f. The court cannot waive program fees, but the court must consider the defendant's ability to pay and ensure that a program with a sliding fee scale is available. (Pen. Code, § 1203.097.)

48. **Protective orders.** A protective order under Penal Code section 1203.097 is mandatory to protect "the victim from further acts of violence, threats, stalking, sexual abuse, and harassment." (Pen. Code, § 1203.097(a)(2).)

49. **Protective order provisions and procedures.** The protective order:
- a. Must prohibit violence, intimidation, or threats;
 - b. May prohibit contact with the victim;
 - c. May allow contact for visitation allowed by custody order;
 - d. Must be issued on the mandatory Judicial Council CPO form, *Criminal Protective Order—Domestic Violence*, (form CR-160) for any order issuing, modifying, extending, or terminating a CPO, including probation conditions; and
 - e. Must be kept by the court in the original in the court file. (Pen. Code, §§ 136.2, 1203.097.)
50. **Notice.** Penal Code section 1203.097(a)(3) provides that if probation has been granted, the victim is to be notified of the disposition of the case. Prosecutors should provide this notice because they have (or have access to) the victim’s address and the court often does not. Moreover, if the court were to give this notice, the notice, including the victim’s address, could become a publicly accessible court record that may jeopardize victim safety.
51. **Restitution fine.** On probationary sentences, the court may increase the amount of the restitution fine above the statutory minimum, and if all the conditions of probation are satisfied, the court can then waive the elevated fine. On the other hand, if probation is revoked, the court has the flexibility to impose a restitution fine other than the statutory minimum.
52. **Review of other orders.** Before sentencing, the court should review all orders regarding the defendant in any related family law matter and in all other relevant cases.

Protective Orders Generally

53. **Firearms restrictions.** The court must make all applicable firearm restriction orders under state and federal law. (Pen. Code, § 136.2(a)(7)(A).)
54. **Cases involving children.** In a case involving children, a court that issues a CPO either pretrial or as a term of probation should consider whether to provide for peaceful contact between the restrained person and the protected person for the safe exchange of the children under an existing or future family law order. For this purpose, the court may consider whether to check the appropriate box on the Judicial Council mandatory form, *Criminal Protective Order—Domestic Violence* (form CR-160).
55. **Entry into DVROS.** CPOs; orders to modify, extend, or terminate CPOs; and proofs of service of CPOs must be entered in DVROS by the court or its designee within one business day. (Pen. Code, § 136.2(a)(7)(A); Fam. Code, § 6380(a).)
56. **Copies.** All interested parties must receive a copy of the CPO. (Pen. Code, § 136.2(e)(1).)

57. ***Procedure to retrieve belongings.*** Each court should encourage the establishment of a local law enforcement procedure to allow a restrained person who is restricted from his or her residence to safely retrieve personal belongings.
58. ***Modification or termination of a CPO.*** If a protected person or a defendant requests modification or termination of a CPO, the court should consider referring the protected person to a domestic violence advocate or other support person for the purpose of discussing the safety implications of the request. If the request is submitted to the court after sentencing, the prosecutor must be given an opportunity to respond to the request. (Pen. Code, § 1203.3.) The court should conduct a hearing at which the prosecutor and defense counsel are present to determine whether the person requesting the modification or termination is in fact the protected person, whether there is good cause for the modification or termination, and whether the modification or termination request, if made by the protected person, is voluntary and not a result of coercion or duress. Other factors the court should consider include (1) the reason for the request, (2) the existence of a safety plan for the protected person, (3) whether the defendant is participating in a batterer's intervention program, and (4) the impact on any children who are in the home. The court also may wish to consider conducting its inquiry in an alternate setting, such as requesting a waiver of the defendant's appearance and conducting a reported chambers interview with the victim or requesting a probation officer or domestic violence counselor to conduct the interview. If the court modifies or terminates the order, the court should ensure that the modification or termination is memorialized on the mandatory Judicial Council form, *Notice of Termination of Protective Order in Criminal Proceedings (CLETS)*, (form CR-165, and duly entered into DVROS.
59. ***Expiration.*** CPOs issued under Penal Code section 136.2 expire on or before the date that criminal jurisdiction over the defendant terminates. (*People v. Stone* (2004), 123 Cal.App.4th 153.) If criminal jurisdiction over the defendant terminates early, a *Notice of Termination of Protective Order in Criminal Proceedings* (CR-165) must be entered into DVROS within one business day. However, new legislation, effective January 1, 2008, provides for the issuance of a CPO for a period of up to 10 years for conviction of certain specified domestic violence crimes whether or not the defendant is sentenced to probation or state prison. (See Assem. Bill 289; Stats. 2007, ch. 582).
60. ***Local rule for communication.*** The court must promulgate a local rule delineating the procedure for communication among courts issuing or modifying CPOs and courts issuing orders involving child custody and visitation. (Pen. Code, § 136.2(f); Cal. Rules of Court, rule 5.450.) Courts also must delineate a similar procedure for communication among courts issuing or modifying CPOs and courts issuing civil or other restraining orders involving the same parties.

Postconviction

61. ***Assessment.*** As soon as feasible after a defendant is convicted and placed on probation, the court or a designated justice system agency, such as probation program or

a batterer intervention program, should conduct an initial lethality assessment and should determine whether the defendant's ability to comply with the terms and conditions of probation is affected by mental health or substance abuse problems.

62. *Progress reports.* The court should order the defendant to appear at a review hearing within 30 days of placing the defendant on probation, at which time the court should determine whether the defendant is in compliance with the terms and conditions of probation. Further, the court must receive "periodic progress reports . . . every three months or less" regarding the defendant's participation in the batterer intervention program. (Pen. Code, § 1203.097(a)(6) and (c)(1)(O)(ii).) Judicial Council form, *Batterer Intervention Progress Report* (form CR-168,), should be used by the probation department or the program provider to periodically inform the court of the defendant's progress in the program.

63. *Final evaluation.* The court must receive a "final evaluation that includes the program's evaluation of the defendant's progress" in the batterer's intervention program and the program should also inform the court as to whether the fees for the program and any restitution have been paid. (Pen. Code, § 1203.097(c)(1)(O)(iii).)

64. *Defendant's appearance during probation.* The court should consider requiring the defendant to appear for periodic progress reports during the probationary period. This appearance may help increase compliance with the probationary conditions. After an initial appearance, courts may consider waiving the appearance requirement if the defendant is in full compliance.

65. *Graduated sanctions.* The court should consider graduated sanctions for probation violations, including the failure to comply with the condition requiring attendance at a batterer intervention program. Graduated sanctions take into account the totality of the circumstances of the defendant's performance and progress while on probation, as well as the impact on the victim. By using graduated sanctions, the court maintains discretion and flexibility in addressing the unique circumstances in each case.

66. *Role of probation.* In addition to the statutory duties of the probation department set forth in Penal Code section 1203.097, probation can be helpful to the court in the following ways:

- a. Conducting assessments regarding lethality, mental health, and substance abuse;
- b. Conducting an orientation to the batterer intervention program;
- c. Evaluating the probationer's ability to pay the fee for the batterer intervention program; and
- d. Maintaining regular communication with batterer intervention programs to determine the progress and status of the probationers and to improve the administration of the programs.

The defendant's successful completion of the terms and conditions of probation and therefore the rehabilitation of the defendant, public safety, and the safety of the victim are directly tied to the involvement of the probation department and probation officer.

Accordingly, the court should advocate for adequate funding for probation services needed to appropriately review and certify programs that meet the statutory requirements and those that provide services necessary to monitor, supervise, and counsel the defendant.

Sources Consulted

Court Surveys

Center for Families, Children & the Courts (CFCC). Case Flow Management Survey. 2005.

_____. Clerks Survey. 2005.

_____. Family Law Judicial Officer Survey. 2005.

_____. Presiding Judges Survey. 2005.

Publications

California Judges Benchbook: Domestic Violence Cases in Criminal Court, 3rd ed.

Berkeley, Calif.: Continuing Education of the Bar, 2003.

Conference of State Court Administrators. *Safety and Accountability: State Courts and Domestic Violence. White Paper on Domestic Violence and the Role of the State Courts*. July 15, 2004.

Judicial College of Arizona. *Benchbook for Orders of Protection and Injunctions Against Harassment in Domestic Violence Cases*. September 1996.

Lovik, Mary M., J.D. *Domestic Violence Benchbook: A Guide to Civil and Criminal Proceedings*. Michigan Judicial Institute. 1998.

National Council of Juvenile and Family Court Judges. *A Guide for Effective Issuance and Enforcement of Protection Orders*. 1999.

_____. *Family Violence: Improving Court Practices—Recommendations From the National Council of Juvenile and Family Court Judges' Family Violence Project*. 1990.

New Hampshire District Court Domestic Violence Protocols. 2002.

Sack, Emily, J.D. *Creating a Domestic Violence Court: Guidelines and Best Practices*. Family Violence Prevention Fund. 2002.

State of New Jersey. *Domestic Violence Procedures Manual*. November 1998.

Task Force on Local Criminal Justice Response to Domestic Violence. *Keeping the Promise: Victim Safety and Batterer Accountability. Report to the California Attorney General*. June 2005.

Washington State Supreme Court Gender and Justice Commission. *Domestic Violence Manual for Judges*. 2001.

Attachment:

THE PRESIDING JUDGES' WHITE PAPER ON DOMESTIC VIOLENCE

The Role of the Presiding Judge in the Administration of Domestic Violence Cases

December 13, 2007

Our goals are to ensure fair, expeditious, and accessible justice for litigants in these critical cases and to promote both victim safety and perpetrator accountability.

Courts must help to ensure that claims of domestic violence can be fully and fairly presented for adjudication, and then, once such claims are found to be true, that victims can receive appropriate assistance, and defendants can be provided the tools to break the cycle.

—Chief Justice Ronald M. George¹⁸

We commend the Domestic Violence Practice and Procedure Task Force, appointed by Chief Justice Ronald M. George in September 2005, for its leadership and work in developing guidelines and recommended practices and procedures. In the last year the members have done an admirable job of collecting information and input from as many stakeholders as possible from across the state. As presiding judges we support the task force's proposals.¹⁹ We recognize that the proposals, viewed collectively, fit squarely within the Judicial Council's strategic goals of access, fairness, and diversity; independence and accountability; modernization; quality of justice and service to the public; education; and building the requisite infrastructure to support those goals. We also recognize that the proposals are guided by the findings contained in the Judicial Council's study on public trust and confidence in the courts,²⁰ which emphasize the public's need for an opportunity to be heard and an understanding of court proceedings. In order for the approved task force recommendations to become a reality and achieve implementation in each of our courts, the presiding judges in every county, large and small, must play a leadership role.

We believe that presiding judges, in partnership with court executive officers, are willing to accept the leadership challenge to advocate for the proper handling of domestic

¹⁸ Judicial Council of California News Release, September 13, 2005, *Chief Justice Names New Statewide Task Force on Domestic Violence*.

¹⁹ See Judicial Council of Cal., Advisory Com. Rep., *Domestic Violence Practice and Procedure Task Force Draft Guidelines and Recommended Practices for Improving the Administration of Justice in Domestic Violence Cases* (Jan. 2007).

²⁰ David B. Rottman & Nat. Center for State Courts, *Trust and Confidence in the California Courts: A Survey of the Public and Attorneys* (Part I: Findings and Recommendations) (Judicial Council of Cal., Admin. Off. of Cts., 2005).

violence cases in our courts. At the same time, we believe we must provide a view of the regular functions and duties of presiding judges through a new lens—one that focuses on the ways presiding judges can improve the administration of justice in domestic violence cases. We join with the task force in its effort to implement standardized procedures and practices in handling domestic violence cases.

CRITICAL FOCUS AREAS FOR PRESIDING JUDGES

Leadership

Many significant legislative and other mandates govern the administration of domestic violence cases. Some of these mandates do not dictate the way in which judicial decisions are made but they do affect court operations. The mandates can range from the duty to ensure that restraining orders are promptly and accurately entered into the statewide Domestic Violence Restraining Order System to the design of court programs that provide adequate self-help services to both parties in a domestic violence proceeding or access to review restraining order applications on a 24-hour basis. Even these few examples demonstrate that the entire administration of the court—from facilities to technology, to employment to security—can be implicated. Mandated responsibilities like these cannot be handled by the individual judge or court employee. Rather, they fall within the authority and responsibility of the court’s executive team—the presiding judge and the court executive officer.

As presiding judges we need to be actively involved in key areas. We recognize that each court must select the appropriate way to implement the task-force’s proposals and that it is a presiding judge’s responsibility to design the court’s individual response to domestic violence cases. We suggest that each court’s approach should maximize services, allocate resources wisely, and maintain accountability.

To ensure that courts comply with mandates promulgated to increase safety and accountability, the presiding judge and court executive officer should maintain a system of internal self-assessment and audits so that the court is continuously monitoring its own progress. Perhaps more important, the local courts themselves, if they pursue a course of internal assessment, will be able to develop sound practice and procedures to voluntarily improve the administration of justice in these cases consistent with their unique local structure and needs. Critical to this process is the gathering of information on a local level so that sound policy decisions will be made. When local courts’ internal monitoring and needs assessments are in place and when they are coupled with communication and outreach to justice system partners, the judicial branch as a whole is in a better position to govern its own affairs in service to the public. Other agencies of government will be far less likely to impose or suggest changes that do not properly or easily fit within the court environment.

Providing a Feedback Loop on Practice and Procedure Within the Court, the Justice System, and the Greater Community

Presiding judges should ensure that the court and the appropriate judicial officers convene regular meetings with domestic violence community stakeholders. Although the models and titles vary slightly by county, many courts have embraced an active and regular relationship with stakeholders for years.

Generally the counties with experience report that these meetings are a good forum for:

- Facilitating communication;
- Collaborating on innovative ideas;
- Educating stakeholders on procedures in domestic violence court;
- Improving ongoing procedures; and
- Enhancing contributions of resources from other than the court.

Judges must be aware of potential ethical issues, but most who have participated in these collaborative meetings report that ethical pitfalls are easily avoided. Judicial leadership helps ensure that agenda items are appropriate and productive and enhance the public's perception of the court.

As ethically appropriate, the court should participate in domestic violence coordinating councils or court-convened committees that provide an opportunity for justice system partners to comment on court practice and procedure relating to domestic violence cases and that provide a mechanism for improving these practices and procedures.

The leadership of the presiding judge is essential in implementing these vital proposals for working with justice system entities and community organizations.

Enhancing Courtroom and Court Facility Security

Courtroom Security—Presiding judges must recognize that courtroom violence most commonly occurs in the family law court or the domestic violence court. In order to maximize the safety of litigants and court staff, courtroom security must be the highest priority. This requires a team effort, among the presiding judge, the court executive officer, and the law enforcement agencies responsible for courtroom security.

In these high-conflict courtrooms there is a large percentage of self-represented litigants who have no attorney to express or manage their emotions. These courtrooms often have high-volume calendars, so they are packed with litigants who have a large emotional stake in the proceedings with no barriers to the parties being in close proximity to each other. It is important that the law enforcement agencies responsible for courtroom security implement policies and procedures that enhance safety in these courtrooms.

Therefore the domestic violence courtroom team should have information on potential problems in advance of the proceedings. Courts should provide CLETS access to the courtroom so that information about all parties in these high conflict cases is available.

Facility Security—The areas outside the courtroom should also be addressed. These areas may include, for example, hallways, family court services offices, and parking lots. The law enforcement agencies responsible for courtroom security should provide staffing to the extent feasible so that “protected persons” remain protected after they leave the courtroom.

One of the most significant contributions that the presiding judge can make to security in high-conflict courtrooms is the selection of the judicial officer. Ensuring fairness, remaining patient, and maintaining the appropriate demeanor are particularly taxing challenges in these courtrooms. In the courtroom itself, the judicial officer sets the tone. The judge must keep control of the courtroom while giving both sides a chance to be heard and treating all litigants with respect.

Part of the judge’s team is his or her courtroom staff. The court should consider using law enforcement in domestic violence courtrooms. The bailiff should be empowered to call for extra security when needed. The departure of the parties from the courtroom should be staggered. As resources permit, upon request of a protected party, an escort should be provided for a safe departure.

Adequate funding is essential to these security procedures and may not be readily available in some courts. We urge presiding judges to be prepared to advocate for the necessary funding so that every litigant and each member of the court’s staff can have the assurance of safety when they enter the court facility.

Determining the Appropriate Court Structure—Domestic Violence Courts or Dedicated Calendars

Presiding judges have been responsible for developing court proceedings and calendars that focus directly on domestic violence. Specialized calendars in family law and criminal domestic violence cases are becoming the rule rather than the exception in our counties.

We recognize that domestic violence courts do not warrant a “one-size-fits-all” approach; in some counties a dedicated judge and courtroom handle domestic violence cases; others may best be served by using specialized calendars.

These specialized courtrooms and calendars make it easier to:

- Offer victims and children specialized services at the court;
- Ensure that sentences are consistent;
- Obtain critical information before hearing the domestic violence cases (for example, whether any of the parties has a criminal conviction for family violence,

whether a party is currently on probation, and whether a restraining order is currently in force);

- Implement more effective procedures to ensure compliance with court orders, such as periodic reviews for court-ordered domestic violence classes and firearms relinquishment orders;
- Monitor issuance, compliance, and termination of protective orders; and
- Communicate with and leverage valuable resources and contributions by other justice and social service partners.

The challenge for a presiding judge is to embark on a process of analyzing and reviewing his or her current court practices and to embrace the goal of improving the handling of domestic violence cases. Presiding judges and court executives will have to work closely to manage realistic reforms and ensure prompt implementation.

Making Appropriate Judicial Assignments and Ensuring Adequate Resources for Judicial Officers Assigned to Domestic Violence Cases

The presiding judge has ultimate authority to make judicial assignments. This duty is especially critical in domestic violence court.

Presiding judges should take into account:

- The needs of the public and the court as they relate to the efficient and effective management of the court's calendar;
- The knowledge and abilities demanded by the assignment; and
- The judges' interests.

No other assignment challenges a judge's skills like presiding over domestic violence cases, in part because they come through many doors of our justice system: criminal court, juvenile delinquency, juvenile dependency, and family law. These cases often present complicated legal issues and *always* present the sensitive emotional issues that accompany families in crisis.

Judges who are selected to preside over domestic violence cases need to be provided with support that will improve the court's response in domestic violence cases. That may include:

- Domestic violence information and self-help programs and services;
- Additional staff to coordinate the families and their cases (i.e. CLETS, other court orders);
- Victim services;
- Court interpreters;
- Probation officers;
- Clinicians for the evaluation of drug, alcohol, and mental health problems;
- Public health nurses; and
- Other relevant agencies.

Judges need to have trained back-up judges to cover vacations and emergencies. We recommend that temporary judges not be used in domestic violence calendars.

The task force can be helpful in assuring that funding is linked to all best-practices recommendations.

Providing Public Information in Response to Press Inquiries Regarding Domestic Violence Cases or Policies

As presiding judges we are mindful that the news media are conduits to our ultimate target audience: the public. It is important that judges continue to respond to inquiries from the media and that they receive education and training on dealing with the media in domestic violence cases. Domestic violence cases often fall into the category of high-profile cases. These cases may have overtones that attract the media, at times they may have tragic outcomes, and often they are the subject of adverse attention for the judicial officers hearing them.

A judicial officer handling domestic violence cases may look to the presiding judge for support when unjust criticism is leveled at him or her after making an unfavorable call in a domestic violence case. It is necessary for presiding judges to develop a media strategy that will assist and support judges who have these difficult assignments.

In order to help create public trust and confidence in our courts, it is critical that as presiding judges we are open to inquiries from the public and the media about our court operations and policies.

Ensuring the Availability of Judicial and Staff Education

An informed and educated judiciary, assisted by a highly qualified staff, is the cornerstone of ensuring public trust and confidence in our courts. Domestic violence cases, with their unique features, may present challenges to achieving this essential goal. It is with the support and encouragement of both the presiding judge and the court executive officer that the courts can achieve it.

Domestic violence allegations may arise in a wide variety of case types, each with a distinctive statutory scheme and technical requirements. Restraining orders, mandatory terms of probation, child custody and visitation determinations, and child maltreatment issues are all examples of the legal settings in which these allegations arise. Thus, judicial educational needs are comprehensive and interdisciplinary. These needs are rendered even more acute when we consider the varied court calendar mechanisms and judicial assignment procedures that exist and the varied experience of the judicial officers who hear these matters on a daily basis.

Challenges for court staff are equally complex since the litigants in these critical cases are often under stress, may be self-represented, and face safety risks. Because of the prevalence of domestic violence in our society, court personnel themselves may have had

personal experience with domestic violence or know colleagues, friends, neighbors, or family members who have, making the competent and neutral performance of court functions that much more difficult.

With the advent of new educational requirements and expectations recently adopted by the Judicial Council, it is imperative for the presiding judge to support education and enable judicial officers and court staff to participate fully in educational opportunities relating to domestic violence cases. Implementing these vital judicial and staff education proposals will require leadership. While it may require a delicate balancing act to ensure that daily court operations are not compromised when judicial officers and staff are participating in training, the presiding judge and court executive officer should facilitate the achievement of this critical goal.

Ensuring Adequate Funding and Resources

While we applaud many of the best practices urged by the task force, as presiding judges we understand that the key to improvements in our courts is adequate funding. Our ability to implement improvements could be hindered by lack of resources. Thus, many presiding judges may naturally be reluctant to move forward on certain proposals if judicial, staffing, and facilities resources are insufficient. If we want these best practices to become reality in California, then we will need resources—not only additional funding but also those resources, such as additional education, that will yield the needed judicial officers, support staff, and courtrooms to deal with our ever-increasing caseloads.

As presiding judges we must be willing to advocate for these resources at the national, state, and local level. This will include addressing our communities and providing education about what we need and what it will take to get the job done.

We can provide the leadership, but in order for presiding judges to ensure adequate funding and resources we must rely on others to produce the necessary means. Adequate funding for our domestic violence courts and cases sends a message that domestic violence is a community priority.

CONCLUSION

As presiding judges we have the responsibility to make sure that our courts work toward the goals set forth in this paper. These guidelines should be more than just a “call to action”; they should become an integral part of our judicial responsibilities as presiding judges. It is our mission to ensure that as a branch we make an overall commitment to work together to eradicate family violence. As Chief Justice Ronald George has said, “Courts alone cannot solve the problem of family violence—but they truly can make a difference.”²¹

²¹ Family Violence and the Courts: 10th Anniversary Conference, San Francisco, CA, September 10, 2004.

This inaugural white paper was developed by the Executive Committee of the Judicial Council's Trial Court Presiding Judges Advisory Committee. The underlying intent of this document is to provide a statement of leadership and to emphasize for courts the critical need to support best practices designed to improve the administration of justice in domestic violence cases. This white paper also delineates ways to implement best practices in this arena and outlines a guide for courts to assess and monitor their progress. The Executive Committee is cognizant that an individual court's ability to implement these practices may be affected by the resources available to that court.

Recommended Guidelines and Practices for Improving the Administration of Justice in Domestic Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force January 2008, Approved February 2008 by the Judicial Council

End Notes August 2013 Reflecting Current Law

Page 8, Areas of Inquiry

The name of the Domestic Violence Restraining Order System (DVROS) has been changed to the California Restraining and Protective Order System (CARPOS) References contained in the report to DVROS apply to CARPOS. (See in addition pp. 16, 19, 20, 27, 28, 29, 30, 41)

Pages 11-12, Guideline No. 4 Judicial education

The Judicial Council adopted California Rules of Court, rule 10.464, effective January 1, 2010. This rule requires each judge or subordinate judicial officer who hears criminal, family, juvenile, delinquency, juvenile dependency, or probate matters must participate in appropriate education on domestic violence issues as part of his or her requirements and expectations under California Rules of Court, rule 10.462. Each judge or subordinate judicial officers whose primary assignment is in one of these areas also must participate in a periodic update on domestic violence as part of these requirements and expectations.

Page 15, Guideline No. 11 Right to hearing

The holding in *Nakamura v. Parker* (2007) 156 Al. App. 4th 327, was codified in Family Code section 6320.5.

Page 18, Guideline No. 31 Court coordination

Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of court, rule 5.445, effective January 1, 2013.

Page 23, Guideline No. 7 Court inquiry, Footnote 10

Penal Code section 12028.5 was renumbered to Penal Code section 18250 and Penal Code section 12021(g)(2) was renumbered to Penal Code section 29825(a), effective January 1, 2013.

Page 24, Guideline No. 10 Set review hearing

California Rule of Court, rule 4.700, effective January 1, 2010, requires that if the court has reasonable cause to believe that the defendant has a firearm in his or her possession or control, the court must to set a firearm relinquishment review hearing to make a determination as to whether the defendant has complied with the requirement to relinquish his or her firearm and to take further appropriate action.

Page 26, Guideline No. 18 Revision of EPO form to indicate reported firearms
The Emergency Protective Order form (EPO-001) was revised in accordance with this guideline, effective January 1, 2013.

Page 28, Guideline No. 1 Access to CLETS
Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of court, rule 5.445, effective January 1, 2013.

Page 32, Guideline No. 1 Administration of criminal domestic violence cases
Former California Rule of Court, rule 227.8, was renumbered without substantive change to become California Rule of Court, rule 10.952, effective January, 1, 2007.

Page 32, Guideline No. 2 Bail schedule
Penal Code section 1269c should read Penal Code section 1269b(c)

Page 34, Guideline No. 14 Factors in setting, modifying, or denying bail
Penal Code section 1269b should read Penal Code section 1275.

Page 42, Guideline No. 60 Local rule for communication
Former California Rule of Court, rule 5.450 was renumbered without substantive change to become California Rule of Court, rule 5.445, effective January 1, 2013.



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FACT SHEET

May 2013

California Courts Protective Order Registry

The California Courts Protective Order Registry (CCPOR), currently deployed to 25 counties and 11 tribal courts with 8 additional counties coming online by October 2013, is a statewide repository that provides more complete, accessible information to judicial officers and law enforcement on restraining and protective orders. By promoting victim safety and perpetrator accountability, CCPOR supports the California judicial branch's strategic plan Goal IV, Quality of Justice and Service to the Public, and the related operational plan objective (IV.1.e) for "[i]mproved practices and procedures to ensure fair, expeditious, and accessible administration of justice for litigants in domestic violence cases."

Project History

The CCPOR program resulted from a recommendation to the Judicial Council submitted by the Domestic Violence Practice and Procedure Task Force to provide a statewide protective order registry. The registry contains up-to-date information, including order images, that is readily available to judges and law enforcement in the participating counties. In February 2008, the Judicial Council approved the recommendation and the CCPOR project was initiated by the AOC Information Services Division under the sponsorship of the Bay Area Northern Coastal Regional Office and with the support of the Center for Families, Children & the Courts.

The Domestic Violence Practice and Procedure Task Force also sought to enhance and improve court access to the California Law Enforcement Telecommunications System (CLETS), an information system managed by the California Department of Justice. As the largest statewide database of protective orders, CLETS is essential for safeguarding both victims of violence and law enforcement officers in the field. Current law requires that all protective orders be entered into CLETS within one business day of issuance. One important goal of CCPOR is to ensure timely and accurate entry of these important orders into the CLETS system.

Goals of CCPOR

To address the task force recommendations, CCPOR has three primary goals:

- Provide the trial courts in all 58 California counties access to CCPOR, enhancing the capability of bench officers to make more informed decisions and avoid issuing conflicting orders;
- Improve public safety and the safety of law enforcement officers by providing access to full text (images), and accurate, complete, and up-to-date order information; and
- Automate exchange of information between the courts and CLETS.

Two key components of CCPOR are the ability to enter and upload protective order data into the system and to search and retrieve that data, including electronic images of court orders. Viewing these electronic images is particularly valuable because this allows users to view special conditions and notes added by judges that are not available through CLETS. In addition, information about court orders that is keyed into CCPOR will be automatically transmitted to CLETS.

Key Features

When fully deployed, CCPOR provides the capability to:

- View order data and images from all 58 California superior courts;
- Access data and order images 24/7 through a secure web-based interface;
- Search orders by name, case number, and other criteria;
- Facilitate protective order sharing between courts;
- Automate California Restraining and Protective Order System (CARPOS—formerly “DVROS”) submission through CLETS;
- Integrate with the Court Case Management Systems utilizing a standard data exchange in order to provide access to judges on the bench and law enforcement officers in the field;
- Provide shared access to law enforcement agencies.

Orders that will be captured in the registry include:

- Civil Harassment Restraining Orders
- Domestic Violence Restraining Orders
- Emergency Protective Orders
- Out-of-State Domestic Violence Restraining Orders
- Criminal Protective Orders
- Elder Abuse Restraining Orders
- Juvenile Restraining Orders
- School Violence Prevention Orders
- Workplace Violence Orders

Use of Enterprise Technology

CCPOR leverages the technology infrastructure at the California Courts Technology Center (CCTC). Design, development, and deployment of CCPOR to the courts was accelerated by reusing key technologies in use at CCTC, including the Integrated Services Backbone (ISB), the California Court Case Management System (CCMS), and the CCTC connection to CLETS. Taking advantage of these tools and systems reduces costs, improves service delivery and provides better management and administration of the system.

While CCPOR is being deployed in advance of the complete rollout of the CCMS, it will be tightly integrated with CCMS to promote venue transparency. CCMS will directly feed into CCPOR to help promote increased access to court information across jurisdictional boundaries.

Development & Deployment Timeline

September 2008–June 2010: Design and development of initial system.

April–December 2010: On-board 21 counties: Amador, Calaveras, El Dorado, Fresno, Humboldt, Inyo, Kern, Kings, Lake, Marin, Placer, Plumas, Riverside, San Benito, Santa Clara, Santa Cruz, Stanislaus, Tulare, Tuolumne, and Ventura.

April–June 2011: On-board Butte County.

April–November 2011: Tribal Court Access - Hoopa Valley, Northern California Intertribal Court System (serving the following tribes: Cahto Tribe of the Lafayette Rancheria, Coyote Valley Band of Pomo Indians, Hopland Band of Pomo Indians and Manchester Point arena Band of Pomo Indians) Shingle Springs Rancheria, Quechan, Yurok, and Smith River Rancheria Tribal Courts.

September 2012–October 2013; On Board 12 new counties: Merced, Lassen, Tehama, Mendocino, Glenn, Sutter, Solano, San Joaquin, San Luis Obispo, Imperial, Madera, and Mariposa.

June 2012–June 2013: FACCTS integration: Development, testing and implementation of electronic signed order from FACCTS system to CCPOR via automated data exchange. Other courts may elect to integrate using this data exchange.

October 2013–September 2014; On Board 4 new counties; 1 large court, and 3 small courts.

2013-2015: Continued deployment to additional counties and justice partners.

Project Awards

Winner - 2011 Best of California Award
Best Application Serving an Agency's Business Needs
Center for Digital Government
<http://www.centerdigitalgov.com/survey/2581>

Winner - 2011 National Digital Government Achievement Award
Government-to-government Category
Center for Digital Government
<http://www.centerdigitalgov.com/survey/88>

Finalist - 2011 Recognition Awards for Outstanding Achievement in the Field of
Information Technology in State Government
Data Information and Knowledge Management
National Association of State Chief Information Officers
<http://www.nascio.org/newsroom/pressRelease.cfm?id=105>

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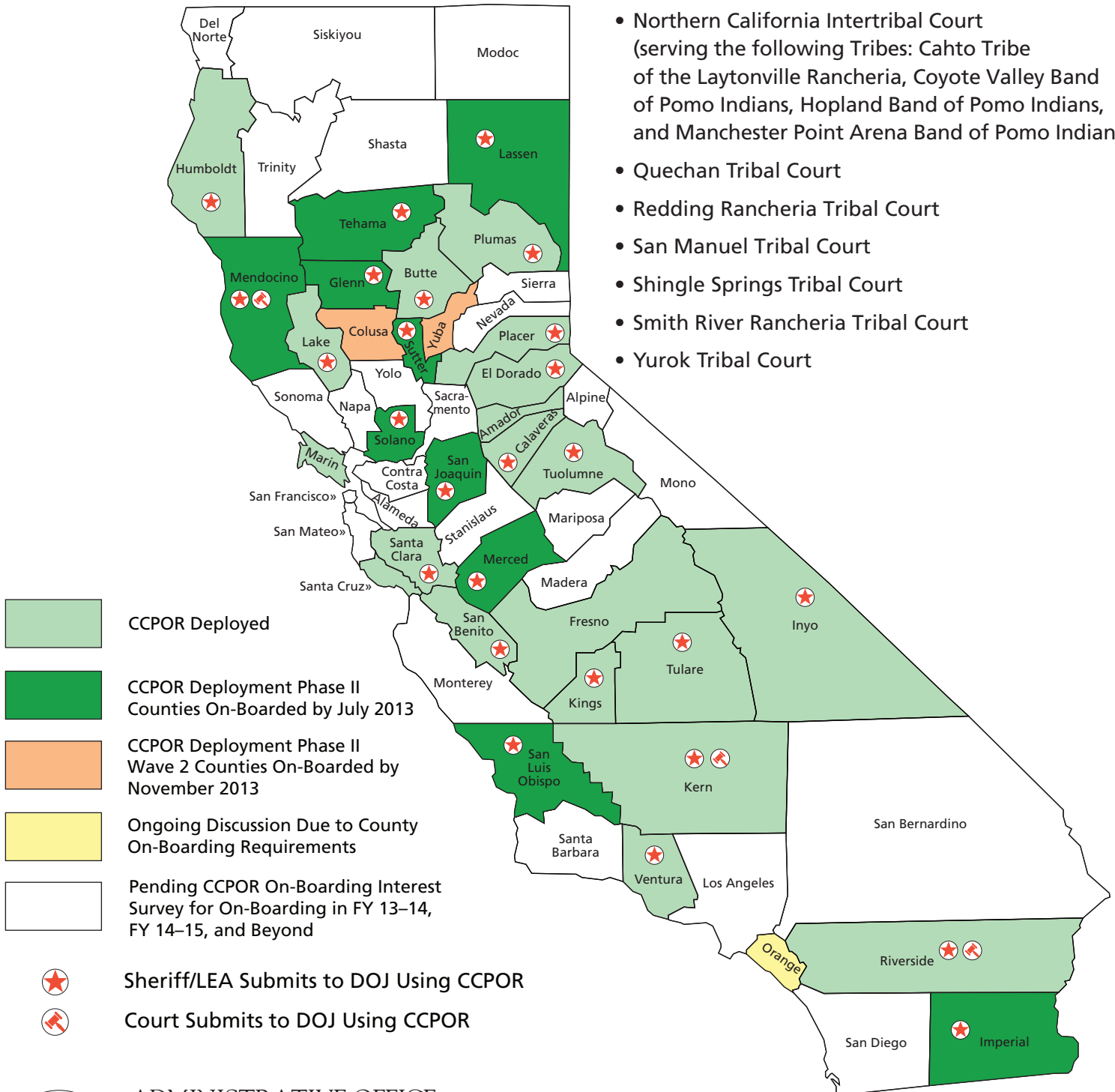
Additional resources:

*Guidelines and Recommended Practices for Improving the Administration of Justice in Domestic
Violence Cases: Final Report of the Domestic Violence Practice and Procedure Task Force,*
www.courts.ca.gov/xbcr/cc/dvpp_rec_guidelines.pdf

CALIFORNIA COURTS PROTECTIVE ORDER REGISTRY DEPLOYMENTS

Tribal Courts Using CCPOR

- Hoopa Valley Tribal Court
- Northern California Intertribal Court
(serving the following Tribes: Cahto Tribe of the Laytonville Rancheria, Coyote Valley Band of Pomo Indians, Hopland Band of Pomo Indians, and Manchester Point Arena Band of Pomo Indians)
- Quechan Tribal Court
- Redding Rancheria Tribal Court
- San Manuel Tribal Court
- Shingle Springs Tribal Court
- Smith River Rancheria Tribal Court
- Yurok Tribal Court



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REPORT TO THE JUDICIAL COUNCIL

For business meeting on December 12, 2013

Title

Family Law: Final Report of the Elkins Family Law Implementation Task Force

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

None

Effective Date

December 13, 2013

Recommended by

Elkins Family Law Implementation Task Force
Hon. Laurie D. Zelon, Chair

Date of Report

November 21, 2013

Contact

Diane Nunn, 415-865-7689
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Executive Summary

Attached is the final report of the Elkins Family Law Implementation Task Force. It presents the recommendations from the Elkins Family Law Task Force report that have been put into place, that remain to be done, and that require ongoing education, technical assistance, research, and evaluation. As directed by the Executive and Planning and Rules and Projects Committees, the Implementation Task Force has reviewed the remaining work and is recommending that the council direct the Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee to be responsible for the remaining tasks of the Elkins Family Law Implementation Task Force. Both committees agree with the recommendation.

Recommendation

The Elkins Family Law Implementation Task Force recommends that the Judicial Council receive and accept the task force's final report and, effective December 13, 2013:

1. Direct that the Family and Juvenile Law Advisory Committee take responsibility for the following remaining tasks:

- a. Develop educational opportunities, information sharing, and technical assistance regarding family law case management; calendar management and receipt of live testimony at hearings; improved trial scheduling procedures; and court processes and procedures related to domestic violence.
 - b. Continue technical assistance and education on the use of the new family law rules of court; revised and simplified forms, such as the *Request for Order* (form FL-300); and other simplification efforts, such as standardizing the processing of default and uncontested judgments.
 - c. Provide ongoing education and technical assistance to courts on practices and procedures related to child custody; children's meaningful participation in family law cases; research and revision of mediation strategies; handling of cases in which there have been allegations of sexual abuse; and the appropriate roles of minor's counsel and other use of experts such as custody evaluators, special masters, and parent coordinators.
 - d. Investigate whether the provisions of standard 5.30 of the California Standards of Judicial Administration can be implemented without the need for a rule of court, and if necessary, pursue adoption of standard 5.30 as a California rule of court.
 - e. Coordinate with the Presiding Judges Advisory Committee and the Access and Fairness Advisory Committee on educational and other efforts to promote the allocation of additional resources to, and the enhancement of the perceived importance of, family law assignments.
 - f. Continue the support of empirical research to assess the workload requirements for family law and the efficacy of family court operations.
 - g. Continue to pursue legislative funding for a Family Law Innovation Project.
2. Direct that the Access and Fairness Advisory Committee take responsibility for the following remaining tasks:
- a. Promote increasing representation in family law through collaboration with the State Bar on limited scope and pro bono resources, and provide support and expertise to the programs instituted under the Sargent Shriver Civil Counsel Act (Assem. Bill 590 [Feuer]; Stats. 2009, ch. 457).
 - b. Seek funding for the expansion of court self-help centers; provide education and technical assistance to court self-help centers in legal substance and procedure, useful technology, and efficient business practices; and perform the review of the *Guidelines for the Operation of Self-Help Centers in California Trial Courts* that is mandated to occur every three years under California Rules of Court, rule 10.960.
 - c. Seek to increase the availability of interpreters in family law both in the courtroom and in other core services, such as business office operations, self-help centers, and family court services.
 - d. Develop educational opportunities, information sharing, and technical assistance on the management of cases involving self-represented litigants, including the promotion of comprehensive settlement assistance for self-represented litigants in both motion and trial matters.

- e. Continue empirical research necessary to assess demographics in the self-help centers, conduct needs assessments and workload demands, and assess the efficacy of court self-help strategies.
- f. Coordinate with the Presiding Judges Advisory Committee and the Family and Juvenile Law Advisory Committee on educational and other efforts to promote the allocation of additional resources to, and the enhancement of the perceived importance of, family law assignments.

Previous Council Action

On April 23, 2010, the Judicial Council accepted the *Elkins Family Law Task Force: Final Report and Recommendations*.¹ The council then appointed the Elkins Family Law Implementation Task Force, effective July 1, 2010, with the charge to implement the recommendations in the final report, including proposing rules of court, forms, and Judicial Council–sponsored legislation for the council and its internal committees to consider. Members also coordinated with advisory committees and justice system partners on implementation efforts, where appropriate. The task force provided to Judicial Council members an interim report, dated November 8, 2010, with information on its progress and supplemented that report with a presentation when the Judicial Council met on December 10, 2010.

Implementation Efforts

A final report from the Elkins Family Law Implementation Task Force is attached, setting out detailed information about the implementation of the over 200 Elkins Family Law Task Force recommendations, their current status, and remaining work to be done. (Attachment A, *Elkins Family Law Implementation Task Force: Final Report*.) Most of the recommendations of the Elkins Family Law Task Force have been put into place; however, some remain to be addressed. For those that have been initiated, ongoing education, technical assistance, and research and evaluation are necessary. The final recommendation of the Implementation Task Force addresses the ongoing efforts that are needed to achieve the goals of the Elkins Family Law Task Force, and to recognize the need to recognize family law as a fundamental component of civil justice.

Rationale for Recommendation

Background and Methodology—The Elkins Family Law Task Force

In May 2008, the Elkins Family Law Task Force was appointed, and Associate Justice Laurie D. Zelon of the Court of Appeal, Second Appellate District (Los Angeles), was named as chair. The task force was created in response to the California Supreme Court opinion in *Elkins v. Superior Court*, 41 Cal.4th 1337, filed August 6, 2007, in which the court found that a restrictive local trial setting order conflicted with existing statutory law and held that marital dissolution trials should “proceed under the same general rules of procedure that govern other civil trials.”² The

¹ Judicial Council of Cal, *Elkins Family Law Task Force: Final Report and Recommendations* (April 2010), www.courts.ca.gov/documents/elkins-finalreport.pdf.

² *Elkins v. Superior Court* (2007) 41 Cal.4th at p. 1345.

court recommended that the Judicial Council of California establish a task force to “study and propose measures to assist trial courts in achieving efficiency and fairness in marital dissolution proceedings and to ensure access to justice for litigants, many of whom are self-represented.”³

The 38-member Elkins Family Law Task Force included appellate court justices, judges, court commissioners, private attorneys, legal aid attorneys, family law facilitators, self-help-center attorneys, court executives, family court managers, family court child custody mediators, court administrators, and legislative staff. It worked for more than two years to gather input from a wide range of interested professionals and members of the public and to develop and refine recommendations.

The task force held 21 focus groups, 10 of which were with family law litigants, including 2 in Spanish. Other focus groups included judicial officers, family court service counselors, family law attorneys, and family court administrators. The task force also conducted an attorney survey to which nearly 600 attorneys responded, held a full-day public input meeting to get feedback from litigants and advocates, held two days of public hearings on the recommendations, and conducted research on family justice systems outside California, both nationally and internationally.

Concerns of stakeholders

Family law litigants. Mirroring the findings of the 2005 survey of the public’s trust and confidence in the California Courts,⁴ the Elkins Task Force held focus groups and public hearings that included family law litigants, in which both represented and unrepresented individuals expressed frustration with their court experience and lack of opportunity to fully present their cases to the court. Following are examples of the concerns they expressed:

- Family court calendars are inefficient, and courts do not respect the litigants’ time. They have to miss too much work because of long waits in court to get a 20-minute hearing. When they do get to hearing, they feel that insufficient time was allocated to allow them to fully present the case to the judge.
- Continuances are repeatedly granted because too many cases are on the calendar or because the other party or his or her attorney is not ready to proceed.
- The amount of time it takes to get a case through the court process is too long and unreasonably increases the cost of attorneys.

³ *Ibid.*

⁴ National Center for State Courts, *Trust and Confidence in the California Courts* (Judicial Council of California, September 2005), www.courts.ca.gov/documents/4_37pubtrust1.pdf. This survey, conducted by the National Center for State Courts, reported that California family law litigants and attorneys practicing family law rated procedural fairness in the courts lower than did litigants and attorneys involved in other case types (p. 4–5). The study concluded that there was an urgent need to improve procedural fairness in family law by a reallocation of court resources to improve the way family law cases are handled (p.4- 5).

- Many self-represented litigants do not know what the required steps are to complete their cases.
- They feel that courts refer too many cases to special masters, evaluators, parent coordinators, and mediators who gather information from the parties and their children, make recommendations to the court, and are sometimes even allowed to make certain decisions in child custody matters. The parties are required to pay huge costs for these services, and they believe the courts simply rubber-stamp these recommendations without much accountability required of the service providers.
- When the court appoints counsel for children in contested child custody cases, parents are expected to pay the counsel's fees, even when they do not have enough money to pay for attorneys for themselves. Minor's counsel is allowed to make recommendations to the court without any opportunity for questioning by the parties and more often than not sides with one parent against the other. They believe that the court automatically adopts the recommendations from minor's counsel.
- Some litigants believe that the law is not fairly and uniformly applied by the courts, leading to arbitrary and often destructive outcomes. A number of litigants described how custody and visitation orders that were made in their cases had long-term negative effects on their children and on their relationships with their children.
- Some suggested that if more time in mediation were allowed, they might be able to reach an agreement about custody and visitation.
- Although the court self-help centers are significantly helpful, legal procedures and rules of evidence are difficult for self-represented litigants to use.

Judicial officers and court personnel. Judges and other court personnel expressed frustration about overwhelming caseloads. They reported that excessively high caseloads for judicial officers, family court mediators, self-help center staff, and court clerk staff create significant delays in setting hearing dates and completing other basic family court operations. The following is a summary of the concerns expressed by judicial officers and court staff:

- The family court does not get its fair share of existing court resources.
- Most litigation in family law occurs through the use of motions. Family law workload cannot be assessed based solely on initial case filings. These filings need to be appropriately weighted to account for the significant number of pre- and postjudgment hearings family cases generate.
- The overwhelming numbers of cases, the complexity of the issues involved, and the fact that in most cases the litigants are self-represented make family law a uniquely challenging assignment.

- The family court needs to be able to manage cases more effectively. Cases can languish in the system for years and create serious complications as they continue to rotate through the law and motion process with no final disposition.
- Self-represented litigants do not know how to manage the progress of their cases, so the need for the court to organize and manage these cases becomes a fundamental access-to-justice issue.
- Family law judicial officers find it difficult to give each case the attention it deserves and keep up with their calendars.
- When judicial officers attempt to address backlogs by increasing the amount of time that they spend on the bench, they find that they are left with inadequate time to review files before cases are heard or to research legal issues presented after hearings.
- Courts need to have the flexibility to create local procedures to address the high-volume litigation load and the backlogs that result. Local rules and procedures can provide innovative solutions for these problems. A total ban on local rules would negatively affect the development of innovative solutions to problems that the family courts face.

Attorneys. Family law attorneys expressed frustration with the lack of resources in family court. The following is a summary of the concerns expressed by family law attorneys:

- Reallocation of existing resources could go a long way in solving the family courts' resource problems. Family courts have inadequate resources because many presiding judges and court administrators treat family law as less deserving of resources than other case types.
- Lack of appropriate allocation of resources to family law cases contributes to the overwhelming caseload demands on individual family law judicial officers.
- There can be long delays in getting contested matters heard and resolved.
- Evidentiary hearings and trials can spread out over several weeks or months as hearing times are squeezed in between other matters. This timeline is extremely inefficient because the attorneys and judicial officers constantly have to refresh their recollections of previous testimony.
- Spreading trials out in fragmented sessions separated by weeks or months can lead to litigating the same issue more than once in a single trial.
- The long delays can exacerbate unresolved problems between the parties, making the issues more complicated to resolve by the time they actually get to the hearing or trial.
- These delays waste time for the court, the attorneys, and the litigants. Clients get billed for this unproductive time, which unnecessarily drives up the costs for representation.

- Too many judicial officers lack experience in family law. Many new judges assigned to family court do not have a background in family law.
- Family law judicial officers rotate frequently, which contributes to the lack of family law experience on the bench and often affects the quality of decisionmaking in family law cases.
- A judge without family law experience can take at least two years to master all of the law needed to hear family law cases. Family law assignments often rotate at or before two years.
- Enormous caseloads compared with other judicial assignments, unfair resource allocation, the complexity of the cases, and the perceived lack of respect within the court attributed to the family law assignment cause judges to avoid this assignment.
- Excessive and inconsistent local rules and procedures drive up the costs of litigation, interfere with attorneys' ability to represent their clients, and make it difficult for attorneys to practice in multiple counties.
- Inconsistent rules within a single court also occur when judges are permitted to create their own procedures unique to their particular courtrooms. This practice is especially frustrating for attorneys who do not regularly appear in a particular courtroom. Courtroom-specific rules are not easily discovered before arriving in court.

The Elkins recommendations

The Elkins Family Law Task Force responded to these concerns in recommendations presented in a report to the Judicial Council, *Elkins Family Law Task Force: Final Report and Recommendations*, which was received by the council on April 23, 2010, and is available at www.courtinfo.ca.gov/jc/documents/reports/20100423itemj.pdf.

The Elkins Family Law Task Force report presents more than 200 recommendations that fall into five general categories:

1. Create efficient and effective procedures to help ensure justice, fairness, due process, and safety.
2. Provide more effective child custody procedures for a better court experience for families and children.
3. Ensure meaningful access to justice for all litigants.
4. Improve the status of, and respect for, family law litigants and the family law process through judicial leadership.
5. Encourage future innovation.

Upon receipt of this report, the Judicial Council directed that a smaller task force be created to assist the Judicial Council with implementing these recommendations.

The Elkins Family Law Implementation Task Force

The Elkins Family Law Implementation Task Force, with 19 continuing members from the original task force, was appointed effective July 1, 2010, with Justice Laurie D. Zelon as chair. The Implementation Task Force has had the distinct benefit of the members' extensive professional experience at both local and state levels, including service on the original task force.

During the past three years, the Implementation Task Force has worked with the Judicial Council, other advisory groups, and the bar to implement the recommendations set out in the Elkins Family Law Task Force report. In the 2010–2011 legislative session, two significant pieces of family law legislation were signed into law; those bills initially guided much of the Implementation Task Force's work.⁵ Members of the Implementation Task Force and the Family and Juvenile Law Advisory Committee have worked together to propose, for Judicial Council adoption, changes needed in the California Rules of Court and Judicial Council forms as a result of this legislation.

As the majority of litigants in family law cases are self-represented, the work of the Implementation Task Force has worked closely with the Task Force on Self-Represented Litigants on the issues of assistance to the public and to the court in the management of cases involving self-represented litigants. The Task Force on Self-Represented Litigants is currently merging with the Access and Fairness Advisory Committee and that committee will continue this important work.

The Implementation Task Force has also worked with the CJER Family Law Curriculum Committee to provide numerous trainings and materials for judges on the changes occurring in family law. The State Bar has been organizing trainings for family law attorneys on changes and addressing the issue of access to legal representation. Researchers at the Administrative Office of the Courts worked to develop fundamental family law management data that courts can use in making resource and other programmatic business decisions. These collaborative efforts to accomplish the recommendations of the Elkins Family Law Task Force are expected to continue with the assignment of the ongoing work to the Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee.

Comments, Alternatives Considered, and Policy Implications

The Judicial Council's Executive and Planning and Rules and Projects Committees considered various alternatives as part of a comprehensive review of the governance, structure, and organization of the council's advisory groups, and the committees' recommendations were approved by the council. The Implementation Task Force recommendations are consistent with the council's directives and recognize the need for consideration after further research and analysis.

⁵ Assem. Bill 939 (Stats. 2010, ch. 352) and Assem. Bill 1050 (Stats. 2010, ch. 187).

Implementation Requirements, Costs, and Operational Impacts

No new costs to the judicial branch will be incurred by adoption of these recommendations. The Family and Juvenile Law Advisory Committee has already undertaken work on the issues of education and technical assistance; and the Access and Fairness Advisory Committee and the Task Force on Self-Represented Litigants have begun a process to merge. Both committees are focused on assistance to the courts with implementation of strategies that either will be cost neutral or can create efficiencies that will allow for more effective allocation of existing resources.

Relevant Strategic Plan Goals and Operational Plan Objectives

Increasing the availability of counsel for litigants in family law and supporting and expanding court-based assistance to self-represented litigants are consistent with strategic Goal I (Access, Fairness, and Diversity). In particular, these recommendations are consistent with 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) and objective 4 (Expand the availability of legal assistance, advice, and representation for litigants with limited financial resources) of the related operational plan.

The recommendations related to empirical research and evaluation are consistent with strategic Goal II (Independence and Accountability), in particular with objective 4 of the related operational plan (Measure and regularly report branch performance—including branch progress toward infrastructure improvements to achieve benefits for the public). The research recommendations are also consistent with strategic Goal III (Modernization of Management and Administration), in particular objective 2 of the related operational plan (Evaluate and improve management techniques, allocation of funds, internal operations, and services; support the sharing of effective management practices branchwide).

The recommendations related to ongoing education and technical assistance with family law processes and procedures are also consistent with strategic Goal III, in particular objective 5 of the related operational plan (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). The recommendations are also consistent with strategic Goal IV (Quality of Justice and Service to the Public), in particular objective 1b (Practices, procedures, and service programs to improve timeliness, quality of service, customer satisfaction, and procedural fairness in all courts—particularly high-volume courts); 1d (Improved safety, permanency, and fairness outcomes for children and families); and 1e (Improved practices and procedures to ensure fair, expeditious, and accessible administration of justice for litigants in domestic violence cases) of the related operational plan.

Attachments

1. Attachment A: *Elkins Family Law Implementation Task Force: Final Report*



Elkins Family Law Implementation Task Force

FINAL REPORT

DECEMBER, 2013

Elkins Family Law Implementation Task Force:

Final Report

December 2013

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Introduction

Access to justice in family law cases is fundamental to the civil justice system. Persons with disputes—whether contractual, tortious, domestic, or otherwise—are entitled to a lawful decisionmaking process that applies the rule of law uniformly and predictably. The right to seek justice through law must encompass full access to the institutions that interpret and apply it: the courts.

The law governing domestic relations disputes and the decisions that flow from it have significant and lasting impact on the lives of individuals, parents, children, extended family members, employers, friends, neighbors, and ultimately the strength of the community as a whole. Yet, historically, meaningful access to justice in family law cases has proved challenging.

Background

*Elkins v. Superior Court*¹

In 2005, Jeffrey Elkins represented himself during a marital dissolution trial. A local court rule and a trial scheduling order in the family court provided that parties must present their cases and establish the admissibility of all the exhibits they sought to introduce at trial by declaration. Elkins’s pretrial declaration failed to establish the evidentiary foundation for all but 2 of his 36 exhibits, and the court excluded them. Subsequently, the court divided the marital property substantially in the manner requested by Elkins’s former spouse. The court’s rule had effectively barred Elkins from presenting his case in court.

On a writ filed by Elkins with the California Supreme Court, the court found that the local rule conflicted with existing statutory law and held that marital dissolution trials should “proceed under the same general rules of procedure that govern other civil trials”² It further noted that concerns about court efficiency should not subject family law litigants to “second-class status or [deprive them] of access to justice” and recommended

Elkins v. Superior Court (2007)
41 Cal.4th 1337, 1338

“In light of the volume of cases faced by trial courts, we understand their efforts to streamline family law procedures. But family law litigants should not be subjected to second-class status or deprived of access to justice. Litigants with other civil claims are entitled to resolve their disputes in the usual adversary trial proceeding governed by the rules of evidence established by statute. It is at least as important that courts employ fair proceedings when the stakes involve a judgment providing for custody in the best interest of a child and governing a parent’s future involvement in his or her child’s life, dividing all of a family’s assets, or determining levels of spousal and child support. The same judicial resources and safeguards should be committed to a family law trial as are committed to other civil proceedings.”

¹ *Elkins v. Superior Court* (2007) 41 Cal.4th 1337 [163 P.3d 160].

² *Elkins, supra*, 41 Cal.4th at p. 1345.

that the Judicial Council of California establish a task force to “study and propose measures to assist trial courts in achieving efficiency and fairness in marital dissolution proceedings and to ensure access to justice for litigants, many of whom are self-represented.”³

The Elkins Family Law Task Force

In response, in May 2008, Chief Justice Ronald M. George appointed the Elkins Family Law Task Force to be chaired by Associate Justice Laurie D. Zelon of the Court of Appeal, Second Appellate District (Los Angeles). The 38-member Elkins Family Law Task Force included appellate court justices, judges, court commissioners, private attorneys, legal aid attorneys, family law facilitators, self-help center attorneys, court executives, family court managers, family court child custody mediators, court administrators, and legislative staff. Several members of the task force served on the Family and Juvenile Law Advisory Committee as well, which made coordination and collaboration easier and kept members well informed about family law policy matters.

During the next two years, the task force held 21 focus groups, 10 of which were with family law litigants, including 2 in Spanish. The other 11 focus groups included judicial officers, family court service counselors, family law attorneys, and family court administrators. The task force also conducted an attorney survey to which nearly 600 attorneys responded, held a full-day public input meeting to get additional feedback from litigants and advocates, and held two days of public hearings on the recommendations during the public comment period. In addition to the input the task force received on the draft recommendations during the comment period, more than 300 persons submitted written comments. The task force also conducted research on family justice systems outside California, both nationally and internationally.

The Recommendations

The Elkins Family Law Task Force presented its recommendations to the Judicial Council in the *Elkins Family Law Task Force: Final Report and Recommendations*, which was received by the council on April 23, 2010.⁴

The Elkins Family Law Task Force report presents more than 200 recommendations that fall into five general categories:

1. Create efficient and effective procedures to help ensure justice, fairness, due process, and safety;
2. Provide more-effective child custody procedures for a better court experience for families and children;

³ *Ibid.*

⁴ See www.courtinfo.ca.gov/jc/documents/reports/20100423itemj.pdf.

3. Ensure meaningful access to justice for all litigants;
4. Improve the status of, and respect for, family law litigants and the family law process through judicial leadership; and
5. Encourage future innovation.

Elkins Family Law Implementation Task Force

On receipt of this report, the Judicial Council directed that a smaller task force be created to assist the council with implementing these recommendations. The Elkins Family Law Implementation Task Force was appointed, effective July 1, 2010, with Justice Laurie D. Zelon as chair. Over the past three years, the Implementation Task Force has worked with the Judicial Council, other advisory groups, and the bar to implement the recommendations in the Elkins Family Law Task Force report. In the 2010–2011 legislative session, two significant pieces of family law legislation were signed into law, and they initially guided much of the Implementation Task Force’s work.⁵

Implementation Efforts

Recommendation I. Creating efficient and effective procedures to help ensure justice, fairness, due process, and safety

A. Helping people navigate the family court through caseload management

Concerns of Stakeholders

In making this recommendation, the Elkins Family Law Task Force built on the work of trial courts around the state that were creating caseload management processes and procedures for family law. Before the establishment of the Elkins Family Law Task Force, many courts had already recognized the critical need to find a systematic way by which the flow of family law cases could be organized and reasonably managed. The situation faced by the courts was characterized by a remarkably high volume of family law cases, significant complexity of cases and issues, and lengthy times from filing to disposition, resulting in large numbers of pretrial hearings and increasingly high inventories for judges. The majority of litigants in these cases do not have attorneys, and many have two or more cases within the same court. In response, small, medium, and large courts around the state began developing caseload management processes in a variety of innovative ways. They were limited in their ability to help parties reach resolution of their cases by the restriction placed on family law case management by Family Code section 2450, which required a stipulation by the parties.

⁵ Assem. Bill 939 (Stats. 2010, ch. 352) and Assem. Bill 1050 (Stats. 2010, ch. 187).

Implementation

- In August 2010, shortly after the appointment of the Implementation Task Force, the Legislature passed Assembly Bill 939 (Committee on Judiciary; Stats. 2010, ch. 352), which modified Family Code sections 2450–2451 to eliminate the requirement of a stipulation by the parties, stating that:

By eliminating the current ability of one party to drag out a case for years, the Legislature intends that all parties participate in, and benefit from, family centered case resolution.

(Assem. Bill 939, § (1)(c).)

- As a result of this legislation, family law judges now have the same authority as other civil judges to organize the progress of family law cases as they proceed through the court process and help the families reach a timely resolution.
- The legislation also required the Judicial Council to adopt a rule of court implementing family law caseflow management, now called family centered case resolution, by January 1, 2012. In response, the Judicial Council adopted rule 5.83 of the California Rules of Court, which provides the framework within which courts can design their own procedures to actively manage their family law caseloads. For many courts, the work has already been done, and the resulting benefits are being realized. For others, new practices and procedures are needed, and ongoing education and technical assistance is required.
- In 2012, the Judicial Council also adopted the following rules of court to enhance the effective caseflow management of family law cases and the efficient use of court and litigant time:
 - Rule 5.9 authorizes appearances by telephone in family law matters.
 - Rule 5.15 authorizes sanctions for rules violations similar to those authorized in other civil cases.
 - Rule 5.125 sets out the procedures for producing orders after hearing.
- Online resources have been developed for courts to provide information about family law caseflow management and give examples of local rules and programs. Also, a family law caseflow management listserv has been established that is intended to help facilitate the sharing of experience and ideas among the courts. These tools need to be maintained and updated as new information is available and programmatic changes occur.

- Several technical assistance visits have been provided to courts that requested them to discuss options for caseflow processes that can streamline family court operations.
- In 2011, a Family Law Summit was held in Los Angeles. The Family Law Summit provided an opportunity for court professionals to talk with each other, across disciplines, and with different courts about family law caseflow management. Thirty-two courts participated by sending teams that included presiding judges, supervising family law judges, family law judicial officers, family law facilitators, court self-help attorneys, court executive officers, court administrators or managers, and family court services directors.
- The Center for Judiciary Education and Research (CJER) has been integrating recommendations on caseflow management into its planning and implementation for training of judicial officers.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation.

B. Preserving the right to present live testimony at hearings

Concerns of Stakeholders

Although at the time of this recommendation many courts routinely allowed litigants to present testimony at the time of their hearings, others required that all family law hearings be conducted by declaration only. The ability of family law litigants, many of whom are self-represented, to adequately present their cases to the court was central to the work of the Elkins Family Law Task Force. Family law is procedurally unique in that many orders—including custody and support of children, support of one or the other spouse, and use and control of community property—are decided at hearings for temporary pretrial orders. The decisions made at these hearings usually address fundamental matters at issue in the case, are often incorporated or repeated in judgments, and have long-lasting effects on the litigants and their children. The right to present live testimony at family law hearings mirrors the right to present testimony at trials.

Implementation

- In recognition of this situation, Assembly Bill 939 amended Family Code section 217 so that courts must receive from the parties and other witnesses live testimony that is competent, relevant, admissible, and within the scope of the hearing. Revised Family Code section 217 further requires that the Judicial Council adopt a statewide rule of court setting out factors a court must consider in making a finding of good cause to refuse to receive live testimony.

- In response, the Judicial Council amended California Rules of Court, rule 5.118(f), eliminating the blanket authorization to conduct family law hearings by declaration, and adopted rule 5.113, which sets out the good-cause reasons to exclude live testimony. Courts that had previously required family law hearings to be conducted by declaration have needed to make a variety of calendar management changes.
- Numerous CJER presentations and educational programs have been provided for judicial officers to familiarize them with Family Code section 217 and provide them with technical assistance on matters of calendar management. Currently a new video on live testimony is nearing completion.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation.

C. Providing clear guidance through rules of court

Concerns of Stakeholders

This recommendation addresses the diversity of local family law rules among the courts, as well as the confusing mixture of civil and family rules in the California Rules of Court. This array of applicable rules has been confusing to attorneys, and even more so to self-represented litigants. The Elkins Family Law Task Force referred to rule 10.20(c) of the California Rules of Court, stating that the Judicial Council should establish uniform statewide practices and procedures where appropriate to achieve justice. The Implementation Task Force collected and reviewed local family law rules from around the state; reviewed related codes—such as the Code of Civil Procedure, Evidence Code, Welfare and Institutions Code, Business and Professions Code, Probate Code, Government Code, and Family Code—along with rules of court for civil and family cases; and prepared a new and more comprehensive set of rules of court for family law.

Implementation

- In February 2012, the Judicial Council adopted the proposal New, Restructured, and Amended Family Law Rules of Court, effective January 1, 2013, which provide greater statewide uniformity in family law procedures. Significant ongoing training and education are required as courts become familiar with these new rules.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation.

D. Streamlining family law forms and procedures

Concerns of Stakeholders

The standardization of family law forms statewide has provided a framework for some basic uniform procedures in case processing; however, the number, variety, and

complexity of forms have increased dramatically over time. Furthermore, courts have created their own local forms and procedures to address matters not covered at the state level. This recommendation of the Elkins Family Law Task Force seeks to simplify forms and procedures wherever reasonably possible.

Implementation

- In summary dissolution cases, AB 939 amended Family Code section 2400 so that the five-year duration of marriage limitation is now measured from the date of marriage to the date of separation, rather than from the date of marriage to the date of the filing of the petition. Further, absent a revocation from either party, the judgment of dissolution will become automatic at six months from the date of filing. All relevant Judicial Council forms have been appropriately modified to reflect this change.
- The Implementation Task Force, in collaboration with the Family and Juvenile Law Advisory Committee, developed the new *Request for Order* (form FL-300). This form combines the former *Order to Show Cause* (form FL-300) and *Notice of Motion* (form FL-301) used in family law proceedings. The intent of this new form is to eliminate confusion of litigants, promote increased standardization of related practices throughout the state, and further reduce the amount of paper to be managed by the litigants and the court.
- AB 939 also modified Family Code section 215 to clarify that postjudgment motions in family law may be served by mail.
- Effective July 1, 2012, the Judicial Council adopted rule 5.92, which authorizes service by posting in appropriate circumstances.
- Effective July 1, 2013, the Judicial Council approved simplification of the declaration of disclosure forms and revised rule 5.77 to implement the new legislative requirement (Assem. Bill 1406, amending Fam. Code, § 2104), which was recommended by the Elkins Family Law Task Force to establish clear deadlines for exchange of disclosure forms and tax returns. It revised the *Property Declaration* (form FL-160) to enable it to be used to comply with disclosure requirements as well as to describe and propose a division of property.
- Work is currently being done on the issue of discovery in family law cases and potential ways to simplify the discovery process while protecting legal safeguards for the public. Much of the work is being carried out at the local level.
- Also at the local level, work is being done on developing a possible simplified process for litigants who are in agreement at the time of the filing of the petition for dissolution. These local projects provide information and suggestions for possible statewide application.

- Progress is being made on developing declaration templates, parenting plan templates, and other agreement templates that are intended to be available on the state Online Self-Help Center. All Judicial Council forms commonly used in family law and domestic violence proceedings have been translated into Spanish to assist litigants in understanding what written information to provide to the court and what the court has ordered.

Current Status

This recommendation has been partially implemented, and work is ongoing.

E. Standardizing default and uncontested process statewide

Concerns of Stakeholders

This recommendation addresses the issue of default and uncontested judgment processing procedures that differ significantly from county to county and from one court location to another, even within the same county. Local rules provide differing methods by which default and uncontested judgments are to be processed and served. This variation creates confusion for attorneys, litigants, and court staff, as well as systemwide inconsistency. Significant percentages of default and uncontested paperwork are rejected as inaccurate or incomplete and returned repeatedly before ever being finalized because attorneys and self-represented litigants face an array of differing requirements in completing these processes. The situation poses a significant burden on the public and on court staff and serves as a major source of frustration and delay in disposition.

Implementation

- Effective July 1, 2012, the Judicial Council addressed this issue, rules 5.405–5.409, and *Judgment Checklist—Dissolution/Legal Separation* (form FL-182). These rules limit the forms and information that courts may require for entry of default and uncontested judgments to those listed on form FL-182. The rules do not require courts to demand the items on the *Judgment Checklist*, although much of the checklist content is mandated by statute or other rules of court, but instead limit the amount of additional information and paperwork courts can require locally.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation.

F. Scheduling trials and long-cause hearings

Concerns of Stakeholders

Based on significant input from the public—including attorneys, litigants, and judges—the Elkins Family Law Task Force recognized that the scheduling of family law trials and long-cause hearings has become unmanageable and detrimental to litigants. Many major trials and hearings are not heard completely in one or more consecutive court sessions but

instead are broken up into multiple shorter sessions, sometimes separated by many weeks or months. This schedule significantly increases the aggregate time that trials and long-cause hearings take because judicial officers need time to make detailed notes and review them to facilitate their recollection of previous sessions. It increases attorney preparation time and expert witness preparation, adds to litigants' financial costs and anxiety, and can result in unprofessional treatment of the issues at hand.

Implementation

- To address this issue, effective January 1, 2013 the Judicial Council adopted rule 5.393, which states that “[c]onsistent with the goal of affording family law litigants continuous trials and long-cause hearings without interruption, when trials or long-cause hearings are set, they must be scheduled on as close to sequential days as the calendar of the trial judge permits.” Further, “[w]hen trials or long-cause hearings are not completed in the number of days originally scheduled, the court must schedule the remaining trial days as soon as possible on the earliest available days with the goal of minimizing intervals between days for trials or long-cause hearings.”

Current Status

This recommendation is partially implemented and requires ongoing effort as well as education. Scheduling of trials and long-cause hearings in family law is a continuing challenge in part because of the insufficient resources allocated to family law.

G. Improving domestic violence procedures

Concerns of Stakeholders

The Elkins Family Law Task Force supports the work currently being undertaken to implement the recommendations of the Judicial Council's Domestic Violence Practice and Procedure Task Force and the ongoing work of the Family and Juvenile Law Advisory Committee on domestic violence issues in family and juvenile proceedings. In recognition of the need to address other areas, the Elkins report developed some additional recommendations for family law.

The issues of the duration of custody, visitation, and support orders in Domestic Violence Prevention Act (DVPA) cases were unclear and handled differently among the California Courts. Additionally, parentage was also a frequent issue in DVPA cases for unmarried parents. Although litigants might agree on the issue of parentage, a separate paternity action would be required to be filed to enter that stipulation as a judgment. This requirement created confusion for litigants and additional paperwork for the court.

Implementation

- AB 939 amended Family Code section 6340 to clarify that orders for child custody and visitation in domestic violence cases survive the expiration of the restraining order.
- AB 939 modified Family Code section 6323 to allow the court to enter a judgment for

parentage on stipulation of the parties in domestic violence cases.

- Effective January 1, 2013 the Judicial Council adopted rule 5.420, which states the protocol for court-connected settlement service providers handling cases involving domestic violence and not involving child custody or visitation (parenting time).
- Historically, regional trainings have been held throughout the state for child custody mediators and family law judicial officers. Currently, the trainings focus on promising practices for handling domestic violence matters and on encouraging the development of domestic violence procedures that conform practices to statewide rules of court and statutory requirements.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation.

H. Assessing mechanisms to handle perjury

Concerns of Stakeholders

One common problem that family law litigants face is the frustration that comes from the belief that information being presented to the court is false.

Implementation

- Statutory protection already exists in marital and registered domestic partnership cases under Family Code section 721 for a breach of confidential relationship; Civil Code sections 1573 and 1575 for constructive fraud and exertion of undue influence, respectively; and Corporations Code sections 1603, 1604, and 16503, and Family Code section 1100 et. seq., for breach of fiduciary duty. Specific remedies are set out in the Family Code.
- Mechanisms exist to address perjury as a criminal matter.

Current Status

Further works needs to be done to determine if existing statutory and case law is insufficient, and why litigants perceive it is not enforced.

Recommendation II. More effective child custody procedures for a better court experience for families and children

A. Improving contested child custody procedures

Concerns of Stakeholders

Contested child custody matters often involve complicated issues with long-term implications for families and children and, in some instances, require significant court resources. California mandates that contested child custody matters be sent to mediation. The Elkins Family Law Task Force heard concerns that some litigants experience

confusion when mediators provide recommendations to the court. Some people reported that mediators' recommendations often provide judicial officers with much-needed information that they might not otherwise receive; however, others reported that allowing mediators to provide recommendations deprives litigants of the opportunity to mediate in a confidential setting. Many litigants also perceived the court as simply rubber-stamping these recommendations. Litigants expressed concerns that the court appoints too many special masters, evaluators, parent coordinators, and mediators who gather information from the parties and their children, make recommendations to the court, and are sometimes even allowed to make decisions in child custody matters. Attorneys expressed concerns about the use of minor's counsel by the court as de facto child custody evaluators, particularly problematic because minor's counsel cannot be called to testify.

Implementation

- AB 939 amended Family Code section 3183 so that recommendations may be provided out of child custody mediation only if they are first provided in writing to the parties; additionally, those providing recommendations need to be referred to in all official information as “child custody recommending counselors” (CCRCs) and the process as “child custody recommending counseling.”
- Family Code section 217 now requires judicial officers to receive live testimony from litigants at hearings on substantive matters in family law, and rule 5.113 specifically identifies the right of the parties to question anyone submitting reports or other information to the court, including the reports from CCRCs. The ability of litigants to testify and to present and question witnesses provides a wider opportunity for litigants to submit their positions to the judicial officer and contribute much needed information directly.
- To help orient the public to the work of child custody mediation, the Judicial Council adopted two information forms setting out the practices and procedures involved in mediation (*Child Custody Information Sheet—Recommending Counseling* (form FL-313-INFO) and *Child Custody Information Sheet—Child Custody Mediation* (form FL-314-INFO)). An updated video for the family court service orientation has been created and posted on the California Courts Online Self-Help Center. It can be used to fulfill the orientation requirement for mediation. Use of the video will help reduce the number of delays in getting through the mediation process.

- As statutorily required, training programs for child custody mediators, recommending counselors, evaluators, investigators, and family law judicial officers have been conducted over the past two years. Regional trainings throughout the state have been provided. Training specifically for family court services directors has also been provided focusing on reconsidering how mediation is provided, how to use limited resources as effectively as possible, and how to educate parents.

Current Status

Much of this recommendation has been put into place; however, given the concerns raised by members of the public and the complex nature of many of the proceedings, more resources and efforts are needed in this area. Access to family court services mediators or child custody recommending counselors (CCRC) has been significantly negatively affected by the current budget crisis, and lack of easy access to mediators or CCRCs early in the process tends to create increased continuances and backlog in the family law courtrooms.

B. Providing guidance for children’s participation and the appointment of minor’s counsel

Concerns of Stakeholders

The Elkins Family Law Task Force recognized that it is important for the court to hear from children in matters that affect them. Some children want to participate and others do not. Decisions about children’s participation need to be made on a case-by-case basis.

The Elkins report also identified issues about the use of minor’s counsel and the role minor’s counsel should play. To be responsive to the complexities inherent in the types of cases that may involve minor’s counsel and the challenges attorneys, parties, and children may face when such appointments are made, the role of minor’s counsel needs to be more clearly delineated and responsibilities of such counsel more clearly defined.

Implementation

- While the Elkins work was under way, the legislature was addressing the issue through Assembly Bill 1050, which, effective January 1, 2012 in part requires courts to state reasons on the record if they decline to hear from children 14 years of age and older who wish to address the court and to find ways of receiving information or input from children of all ages if they are precluded from testifying.
- The legislation also requires the Judicial Council to adopt a rule of court that sets out specific parameters for the receipt of information and input from minors. In response, the council adopted rule 5.250, effective January 1, 2012.
- In 2011, the Family Law Summit in Los Angeles included changes in the law related to children’s participation in family law cases.

- The Administrative Office of the Courts (AOC) developed www.changeville.ca.gov and www.familieschange.ca.gov based on websites in use in British Columbia to provide information to parents, children, teens, and professionals about separation and divorce. Work is underway to add a parent education course to the site to relieve local courts of the need to deliver similar programs.
- AB 939 amended Family Code section 3151 to eliminate the requirement that minor's counsel submit a statement of issues and contentions, making it clear that the role of minor's counsel is not to investigate or evaluate but to serve as an attorney in the case. The Judicial Council then amended rule 5.242(j)(4) to set out the duties of minor's counsel when a child is called to testify.
- The Judicial Council also amended rule 5.240 to require that courts review and update their lists of qualified minor's counsel annually.
- Regional trainings throughout the state for family law judicial officers, child custody mediators, recommending counselors, and evaluators included two-hour sessions on children's participation in family court, including implementation of task force recommendations and AB 1050.
- Implementation Task Force members coordinated with the Executive Committee of the Family Law Section of the State Bar and State Bar staff to develop training for minor's counsel statewide and locally.
- CJER training programs integrated education for judicial officers on appropriate use of minor's counsel and existing rules of court addressing minor's counsel appointment requirements.

Current Status

This recommendation is ongoing, and continuing education is required with respect to both children's participation and use of minor's counsel.

C. Enhancing children's safety

Concerns of Stakeholders

Family law courts are often confronted with issues involving allegations of child abuse, neglect, and violence in the home. The Elkins Family Law Task Force heard many concerns about the safety and well-being of children whose parents are involved in family court proceedings.

Implementation

- Legislative changes, including authorization for child welfare to share information with family court, have been promulgated. These changes provided additional support for family law judges to request that Child Welfare Services consider cases in which

there are allegations of abuse, including sexual abuse, and not decide *not* to investigate just because the case is in family court.

- Training on these topics has been provided statewide over the past several years, and efforts to improve the handling of these complex cases are ongoing through technical assistance, training, and, where needed, identification of policies and procedures that may need rule or legislative fixes.

Current Status

This recommendation has been largely implemented; however, the establishment and funding for a pilot program to implement promising practices in handling allegations of child sexual abuse have been delayed as a result of budget constraints.

Recommendation III. Ensuring meaningful access to justice for all litigants

A. Increasing the availability of legal representation and providing a continuum of legal services

Concerns of Stakeholders

Many people find themselves in family court without the assistance they need to present their cases. For those who are able to represent themselves, more services are needed to help them navigate the court system and get their day in court. For those who cannot represent themselves meaningfully, additional ways to increase representation are needed. The Elkins Family Law Task Force recognized that legal information and advice are critical in family law matters. To meet the needs of litigants in as cost-effective a manner as possible, it is critical that a continuum of services—from providing neutral legal information and education to providing full representation in trial and appellate matters—be available. In between are midlevel services, such as assisting with forms and explaining court procedures, as well as providing settlement opportunities or mediation, legal consultation and advice, or limited-scope representation.

Implementation

- The Legislature has recognized the difficulties with self-representation in some cases. The Sargent Shriver Civil Counsel Act (Assem. Bill 590 [Feuer]; Stats. 2009, ch. 457) offered funding starting in July 2011 for pilot projects that provide representation to low-income parties on critical legal issues affecting basic human needs. The legislation allows legal services organizations to expand representation in the family law arena in domestic violence and contested child custody cases (among other non-family law case types). Three pilot programs have been established with this funding to provide services for low-income litigants in cases where the other side is represented and sole custody is being sought. An evaluation of the program is underway and will be completed in 2016.

- In response to the Elkins report, AB 939 amended various sections of the Family Code to provide that the court must consider attorney fee awards when requested. The Judicial Council then adopted rule 5.427, effective January 1, 2012, setting out the process for obtaining an attorney's fee order. Judicial Council forms *Supporting Declaration for Attorney's Fees and Costs Attachment* (form FL-158) and *Attorney's Fees and Costs Order Attachment* (form FL- 346) were adopted for use in requesting attorney's fees and drafting the court order for attorney's fees.
- The Judicial Council revised rule 5.425, effective January 1, 2013, clarifying procedures for limited-scope representation.
- In 2012, the State Bar amended its rules regarding its Pro Bono Practice Program to allow attorneys who do not work for compensation, but who volunteer at court-based self-help centers, to receive the benefits of the program, including waiver of bar dues.
- Coordination is under way with State Bar staff to identify ways to improve mentoring opportunities for family law attorneys.

Current Status

This recommendation has been partially accomplished. More work with the State Bar is needed to encourage limited-scope and pro bono representation. Work has been significantly impeded by the budget crisis faced by the courts. More work is required to support the court self-help centers as they handle the high volume of cases needing attention.

B. Improving litigant education

Concerns of Stakeholders

The family law process can be confusing and intimidating. Education for litigants about the court process and basic legal principles can help minimize stress, encourage appropriate agreements, and assist the parties in resolving their cases in a timely manner. When litigants understand their legal rights and procedural requirements, court processes can be more effective and efficient, less frustrating, and more responsive to litigants' needs. Additionally, information about settlement options and assistance in preparing written agreements can help parties arrive at solutions tailored to their family situations. This process can avoid the expense and difficulties of a high-conflict case that may divert parents' time, energy, and money from otherwise being used for their children's benefit.

Implementation

- Courts are receiving information about www.familieschange.ca.gov and www.changeville.ca.gov, two sites that were adapted from British Columbia to provide information on separation and divorce for parents, teens, kids, and professionals. Posters and brochures are also being provided regarding the California Courts Online Self-Help Center, available in English and Spanish at

www.courts.ca.gov/selfhelp and www.sucorte.ca.gov, to help inform the public of resources available to them.

- The Judicial Council adopted a number of information forms for the public. For example, *Legal Steps for a Divorce or Legal Separation* (form FL-107-INFO) sets out a chart of the dissolution process for the public. *Information Sheet for Request for Order* (form FL-300-INFO) sets out instructions on how to make a request for an order. As previously mentioned, forms FL-313-INFO and FL-314-INFO provide information about child custody mediation and recommending counseling. Further, *Attorney for Child in a Family Law Case—Information Sheet* (form FL-321-INFO) provides information to the parties about minor’s counsel.
- In 2012 the Judicial Council adopted rule 5.83(g), which requires that courts provide information about the court process, as well as other orientation information, to litigants at the time of the initiation of their case. An orientation video has been created that educates litigants about the child custody mediation and court process. This video has been posted online and distributed to the courts and is expected to increase the number of parents who can access this information in a timely manner and be prepared for their mediation meeting at family court services.
- Work is currently in process to collaborate with 2-1-1 California to provide easy access to community referrals online and available at the California Courts Self-Help Centers.
- The redesign of the California Courts Self-Help Center has incorporated additional content regarding family law proceedings. More than 4,000 pages of information are available in English and Spanish on the website. Educational videos on how to: complete family law forms, how to present and object to the presentation of evidence, appellate procedures and how to proceed with family law cases have been uploaded to the California Courts YouTube channel and are included on the updated Online Self-Help Center.
- Workshops on providing information about settlement opportunities, as well as reviews of existing resources, will continue to be included in family law training for self-help and legal services providers.

Current Status

This recommendation has been partially implemented. Work still needs to be done to develop efficient settlement opportunities for self-represented litigants, and assessment of the educational needs of litigants must be ongoing and updated.

C. Expanding services to assist litigants in resolving their cases

Concerns of Stakeholders

Often parties are unaware of settlement options. Without lawyers, people who are trying to resolve complex family issues often find it difficult to do so without the assistance of a skilled third party to help them focus their discussions, reflect back potential solutions suggested by the parties, and draft a written agreement.

Implementation

- Rule 5.83 contemplates that the organization and management of cases flowing through the family court process will serve to enhance settlement. Although rule 5.83(c)(6)(D) provides for settlement services as part of a family-centered case resolution process, courts are not required to provide them.
- When a court does elect to provide settlement services, however, rule 5.420, adopted by the Judicial Council effective January 1, 2013, requires local courts to develop a protocol for handling domestic violence in non-child custody cases. The task force worked to create a sample protocol, which is available to courts.
- Work is in progress to develop an application for parents to create their own custody agreement online.

Current Status

This recommendation has been implemented only in part as a result of the severe budget constraints faced by the courts. Many courts have incorporated settlement services into family-centered case resolution, but to date there is no systemic procedure to offer settlement services to family law litigants in any area other than child custody.

D. Providing interpreters when needed

Concerns of Stakeholders

Even though the Judicial Council specifically allocates \$1.73 million in funding for interpreters in cases involving domestic violence, family law, and elder abuse, requests for funding are much greater than the amount available. Many courts have been very thoughtful about organizing workload and making interpreters available in family law cases whenever possible. However, interpreters are not always available in family law matters unless domestic violence is an issue or the case involves governmental child support. Litigants often have to provide their own interpreters. Some use relatives or other interested parties. Having interpreters available on the day of the hearing would greatly reduce the need to continue a matter and thus provide greater access to justice for litigants.

Implementation

- A request for full funding of interpreters in family law and domestic violence matters was made to the California Department of Finance but was unsuccessful.

- Coordination is under way with staff in the AOC Court Language Access Support Program to implement recommendations on methods to enable courts to provide interpreters in family law matters.
- A curriculum has been developed and is being piloted with JusticeCorps volunteers to assist bilingual court staff and volunteers in self-help centers to provide appropriate services outside the courtroom in languages other than English.
- The Judicial Council has established a committee to develop a Language Access Plan for the state to identify next steps to providing full language access. It is reviewing best practices from throughout the state in providing language assistance.

Current Status

This recommendation is under way and needs more work. It has been severely affected by the budget crisis.

E. Making court facilities more responsive to the needs of family court users

Concerns of Stakeholders

Many of California's family law courtrooms are in converted commercial space or inadequate courthouse locations, in part because they do not need to accommodate juries and thus do not have the same space requirements as other courtrooms. Family law litigants frequently cite the inconvenience and confusion they experience from needing to make multiple trips to court or travel to different court locations to handle different aspects of their court business. This issue may be particularly salient for litigants involved in both Department of Child Support Services (DCSS) and other family law cases.

Implementation

Family court facilities are specifically noted in the guidelines used by the AOC Judicial Branch Capital Program Office (JBCPO) when building new courthouses. Coordination is under way with JBCPO staff to implement recommendations on providing safe, accessible, and efficient court facilities for family law litigants.

Current Status

This recommendation is under way and needs more work. It has been severely affected by the budget crisis and diminution of resources available for court construction and remodeling.

Recommendation IV. Enhancing the status of, and respect for, family law litigants and the family law process through judicial leadership

A. Promoting leadership, accountability, and better use of resources

Concerns of Stakeholders

Currently in family courts statewide, fewer than two-thirds' the number of judicial officers needed to handle the workload are assigned to hear family law cases. Related services, including child custody mediation and self-help centers, have experienced significant cuts. Many suggested changes can increase efficiency in the delivery of services in family law without adding resources; however, without significant additions of judicial officers and staff resources, courts will be unable to meet the crushing workload in family courts.

Implementation

- The Judicial Needs Assessment and Resource Assessment Study (which measures staff workload) has been updated and expanded in scope and level of detail. The workload data gathered through this study will help courts to compare actual resource allocation to that which is suggested by the models.
- A set of “dashboard measures” of fundamental family law statistics has been defined to help courts establish baseline measurements that can then be used to identify caseflow areas meriting further attention. Once implemented, these measurements will inform and guide the courts in monitoring, evaluating, and improving their performance in the specific measured areas/outcomes, as well as assessing the effects of various caseflow adjustments.
- An online video to assist presiding judges in making appropriate assignments to the family law bench was prepared by CJER and is available for judicial officers.

Current Status

Implementation of this recommendation has not been accomplished. It has been severely affected by the budget crisis faced by the courts. Work needs to continue in order to implement standard 5.30 of the California Standards of Judicial Administration, which sets out minimum standards for family courts, including judicial appointments of a minimum of three years, selection of judges with prior experience in family law litigation and mediation, direct calendaring of family law matters to the greatest extent possible, and calls for court leadership in a number of areas specific to family law. Recognition of the importance of the family law assignment will need to be a continuing focus of court leadership.

B. Improving judicial branch education

Concerns of Stakeholders

The ongoing need to offer education and training in the judicial branch provides opportunities to promote consistency throughout the state, share knowledge of and experiences with promising practices, and disseminate important information to judicial officers and court employees. Even though a wide range of educational programs has been developed for family law judicial officers and court staff, it is important that educational content be kept current and responsive to the types of cases and issues being heard in family court.

Implementation

- The CJER Family Law Education Committee reviewed all recommendations from the task force and has committed to integrating content from the recommendations into all programs and educational efforts being developed for judicial officers.
- The Family Law Institute and Family Law Summit have included content on live testimony, case management, minor's counsel, and children's participation.
- Family Law Overview courses include content on children's participation and appropriate use of minor's counsel.
- Regional trainings and distance learning opportunities for child custody mediators, recommending counselors, and family law judicial officers provided workshops on children's participation and domestic violence over the past few years and will continue as needed or required.
- Online courses have been developed for judicial officers on attorney's fees, fairness and elimination of bias, self-represented litigants, courtroom management, and a wide variety of other family law topics to assist judicial officers to gain the information they need without having to travel to courses.
- Online training was also developed for court clerks on the changes in family law forms and procedures in response to the Elkins recommendations.
- The Task Force on Self-Represented Litigants has created an online catalog of effective practices that court self-help centers can use to assist self-represented litigants.

Current Status

This recommendation has been put in place but requires ongoing education and technical assistance as courts move forward with implementation. Ongoing assessment of the educational needs of the branch is necessary.

C. Increasing public information and outreach

Concerns of Stakeholder

The public should have access to more information on their legal rights and options as well as the services that are available through the courts. Litigants or potential litigants may be unaware of services available to them, particularly in the early stages of their cases, which may result in lost opportunities to settle cases early or resolve issues underlying the case. Enhancing public information and outreach will help to ensure that court users make the most productive use of their time in court.

Implementation

Coordination is under way with staff in the *Court Operations Special Services Office* of the AOC to implement recommendations on providing information to the public.

- Training is being provided for public librarians on the self-help website, and other resources—which they can share with their patrons—are available at no charge.
- Information on the California Courts Online Self-Help Center was substantially increased, and there are now over 4,000 pages of information, much of which relates to family law. And the site has been translated into Spanish.

Current Status

This recommendation has not been fully implemented and needs more work.

Recommendation V. Laying the foundation for future innovation

A. Promoting family court improvement through empirical research

Concerns of Stakeholders

Family law judicial officers and court administrators historically have not had access to the basic data required to make informed decisions about resource allocation, evaluate the need for or effectiveness of new programs or services, or make requests for additional funding. Statewide statistical reporting has been largely limited to filings and dispositions, which, given the high incidence of filing of orders to show cause and motions and extensive postjudgment activity, do not represent the true workload of the family court. Furthermore, in the broader scope of court research, family law has received relatively little attention. Local statistical reporting varies greatly depending on the sophistication of case management systems. A more coordinated and comprehensive approach to research will promote better service to the public and wiser use of resources.

Implementation

- The Judicial Needs Assessment and Resource Assessment Study (which measures staff workload) has been updated, with an eye to more accurately measuring the full range of tasks involved in processing family law cases. Task force members and AOC staff to the task force have been actively involved in this study.

- A set of “dashboard measures” of fundamental family law statistics has been defined to help courts establish baseline measurements that can then be used to identify caseflow areas meriting further attention. Once implemented, these measurements inform and guide the courts in monitoring, evaluating, and improving their performance in the specific measured areas/outcomes, as well as in assessing the effects of various caseflow adjustments. The measures are currently being pilot-tested using case management system data from several courts throughout the state.
- AOC staff are conducting a workload study of best practices to examine in greater detail the resources required to implement effective family law practices in a variety of areas.
- AOC staff and task force members are taking inventory of existing statistical reports used in California counties and other jurisdictions.
- AOC staff have presented and disseminated results of the Statewide Uniform Statistical Reporting System, also known as the Snapshot Study, focusing on aspects of court-based child custody mediation related to the task force recommendations.

Current Status

This recommendation has been partially accomplished but needs more work. Research is not a one-time effort but needs to be ongoing to monitor changes in caseloads and case characteristics and to assess the effectiveness of court interventions.

B. Creating the California Family Law Innovation Project

Concerns of Stakeholders

Although the family courts can make significant improvements by better use of existing resources, additional resources will be needed to make the long-term improvements that are necessary to restore the public’s trust and confidence in the family courts. Much of the improvement that will be achieved in the future will be achieved through ideas for innovative new practices and approaches to providing services as families’ needs change. By necessity, many of the improvements to the family courts will have to be phased in after being tested through pilot projects. It is critical that the courts, the legal community, and court users all continue to have the benefit of innovative projects and approaches to service delivery in family law.

Implementation

- No implementation activity has occurred because the intended legislative funding has yet to become available.

Current Status

Implementation of this recommendation has been deferred pending the availability of funding.

Conclusion

Because of the combined efforts of the Elkins Family Law Implementation Task Force and groups such as the Family and Juvenile Law Advisory Committee, Task Force on Self-Represented Litigants, Domestic Violence Policies and Procedures Task Force, CJER Family Law Curriculum Committee, State Bar of California, and California Assembly—plus the consistently remarkable work of the California trial courts—the majority of the recommendations of the Elkins Family Law Task Force have been put in place. Future work on the remaining tasks—as well as consistent updating of information, forms, rules, and procedures—will be necessary.

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Keeping Kids in School and Out of Court Summit

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The [Keeping Kids in School and Out of Court Summit](#) was held December 4, 2013, in Anaheim, California, in conjunction with the [Beyond the Bench conference](#).

A pre-Summit day of workshops and presentations focused on promising interventions, followed by a team debriefing where the Chief Justice can provide appreciation for the day's work.

The Summit brought together judicial officers, educators, juvenile justice and child welfare professionals, and community leaders to:

Spotlight the problem of truancy and school discipline policies that put California's children at greater risk of juvenile and criminal justice system involvement;

Highlight some successful solutions to the problem; and

Engage local teams to return to their home counties with a strategy to keep kids in school and out of court.

The summit featured speakers addressing the challenges and promises of a new focus on truancy and school discipline policies from both a federal and statewide perspective to include the Chief Justice, the Superintendent of Public Education, the Secretary of Health and Human Services, and the Attorney General; and local team building activities aimed at galvanizing county teams to establish effective court-based or other programs in their own communities. For more details, view the [Summit Agenda](#).

For more information on the history of the summit, view this [press release](#) or listen to the audio [excerpt from August 23 Judicial Council meeting](#).

Below you will find informative handouts developed for the summit's various workshops.

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A1. Youth Courts: Creating Positive Alternatives to the Traditional Juvenile Justice System

A2. Juvenile Justice Jeopardy: Engaging Youth in Critical Thinking About School Policies and Interactions with Adults

A3. It Takes A Community! Research & Action in Washington State

B1. Attendance Matters: Research-based Models to Address Chronic Absenteeism

B2. Transforming Trauma's Effects on the Developing Brain: How Educators, Judges & Other Professionals Can Help to Foster Resilience and Promote School Success

B3. Truancy Court and Model School Attendance Review Board Programs for School Attendance Improvement

C1. Interventions to End the School to Prison Pipeline

C2. Community Collaboration to Support Educational Success: A Successful Model from Santa Cruz

C3. Implicit Bias in Decision Making

D1. Judging the Teen Brain: What Judges Need to Know About Adolescent Brain Development

D2. Introduction to Restorative Justice (RJ) and Positive Behavioral Interventions and Supports (PBIS) Models of



Chief Justice Tani Cantil-Sakauye (right) signs a resolution declaring Dec 4, 2013, "Keeping Kids in School and Out of Court Day", with Justice Richard Huffman, chair of the Blue Ribbon Commission (BRC) on Children in Foster Care, and Judge Stacy Boulware Eurie, chair of the BRC Truancy/School Discipline Workgroup.

[Intervention](#)

[D3. California School Discipline Innovators Panel](#)

[Wednesday, December 4th Plenary](#)



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 22, 2015

Title

California's Language Access Plan: *Strategic Plan for Language Access in the California Courts*

Agenda Item Type

Action Required

Effective Date

January 22, 2015

Rules, Forms, Standards, or Statutes Affected

N/A

Date of Report

January 6, 2015

Recommended by

Joint Working Group for California's
Language Access Plan
Hon. Maria P. Rivera, Cochair, and Member
of the Advisory Committee on Providing
Access and Fairness
Hon. Manuel J. Covarrubias, Cochair, and
Member of the Court Interpreters
Advisory Panel

Contact

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Executive Summary

The Joint Working Group for California's Language Access Plan recommends that the Judicial Council adopt the *Strategic Plan for Language Access in the California Courts* (Language Access Plan). The plan is the result of an 18-month effort that included public hearings and public comment, including a 60-day period for submission of formal public comments on a draft plan. The final plan provides recommendations, guidance, and a consistent statewide approach to ensure language access to all limited English proficient (LEP) court users in California. Having completed its task, the Joint Working Group also recommends immediate formation of two groups that would report to the Judicial Council's Executive and Planning Committee: (1) a Language Access Implementation Task Force, which would develop and recommend the methods and means for implementing the Language Access Plan in all 58 counties, as well as coordinate with related advisory groups and Judicial Council staff on implementation efforts; and

(2) a translation committee, which would oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

Recommendation

The Joint Working Group for California's Language Access Plan recommends that the Judicial Council, effective January 22, 2015:

1. Adopt the *Strategic Plan for Language Access in the California Courts*;
2. Recommend to the Chief Justice the composition and establishment of a Language Access Implementation Task Force, to be overseen by the Executive and Planning Committee; and
3. Direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

Previous Council Action

The Joint Working Group for California's Language Access Plan includes members of both the Court Interpreters Advisory Panel (CIAP) and the Advisory Committee on Providing Access and Fairness, along with other stakeholders. In June 2013, the Chief Justice appointed the working group to develop a comprehensive statewide language access plan that will serve California's LEP court users. In October 2013, the Joint Working Group provided an informational presentation to the council to update members on the working group's goals, timeline, and anticipated steps in the development of a comprehensive Language Access Plan (LAP).¹ In August 2014, the Joint Working Group provided an additional informational presentation² to the council regarding the formation of a draft plan. The status update in August included a description of the formal public comment process (from July 31 to September 29, 2014) that was then underway, and the Joint Working Group's intent to prepare and submit a final plan following the formal public comment process.

Rationale for Recommendation

California is the most diverse state in the country, with approximately 7 million LEP residents and potential court users dispersed over a vast geographic area and speaking more than 200 languages. Without proper language assistance, LEP court users may be excluded from meaningful participation in the judicial process. Many LEP litigants appear without an attorney and without a qualified interpreter, and courts have had to rely on friends and/or family members

¹ California's Language Access Plan: Status Report, Item J for the October 25, 2013 Judicial Council business meeting, available at www.courts.ca.gov/documents/jc-20131025-itemJ.pdf.

² California's Language Access Plan: Update on Development of the *Strategic Plan for Language Access in the California Courts*, Item G for the August 22, 2014 Judicial Council business meeting, available at www.courts.ca.gov/documents/jc-20140822-itemG.pdf.

of the court user—individuals who generally do not understand legal terminology or court procedures—to act as the court interpreter. Further, LEP court users’ language needs are not limited to the courtroom; the need for language assistance extends to all points of contact with the public, including clerks’ offices, self-help centers, court-connected clinics, and beyond.

The California judicial branch has long supported the need for language access services in the courts. However, the branch has not adopted a comprehensive plan that provides recommendations, guidance, and a consistent statewide approach to ensure language access to *all* LEP court users. The *Strategic Plan for Language Access in the California Courts* (Language Access Plan) achieves this goal and aligns with the U.S. Department of Justice’s recommendations for California to expand its language access efforts. It also aligns with recent legislation in California (Assem. Bill 1657; Stats. 2014, ch. 721) that sets out priorities for the provision of court interpreters in civil proceedings. Extensive language assistance has been and continues to be a priority in the state’s courts, including providing court interpreters for many types of cases.³

In August 2013, the Chief Justice announced her vision for improving access to justice for Californians through an effort called “Access 3D” that involves physical, remote, and equal access to the justice system. Efforts to enhance language access for LEP court users are a critical component of this vision.

The Joint Working Group’s objective for the Language Access Plan is to provide a comprehensive set of recommendations that create a branchwide approach to providing language access services to court users throughout the state while accommodating an individual court’s need for flexibility in implementing the plan recommendations. A primary goal of the plan is to develop and support a culture in which language access is considered a core court service in every courthouse.

This report recommends that the Judicial Council recommend to the Chief Justice the composition and establishment of a Language Access Implementation Task Force, which will have a three- to five-year charge and be overseen by the Executive and Planning Committee. As part of its charge, the Implementation Task Force will develop an implementation plan for presentation to the Judicial Council and identify the costs associated with implementing the plan’s recommendations. The Task Force will coordinate with related advisory groups and Judicial Council staff on plan implementation and have the flexibility to monitor and adjust

³ The Legislature provides funding to the courts for interpreter services in a special item of the judicial branch budget (Program 45.45 of the Trial Court Trust Fund). At its public meeting on January 23, 2014, the Judicial Council approved recommendations that explicitly allow expenses for court interpreter funds from 45.45 to include costs for all appearances in domestic violence cases, family law cases in which there is a domestic violence issue, and elder abuse cases, as well as interpreters for indigent parties in civil cases. At its public meeting on December 12, 2014, the council modified the action, approving expenditure of these funds consistent with the priorities and preferences set forth in AB 1657. (For the full text of AB 1657, see [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1657&search_keywords=.](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1657&search_keywords=))

implementation plans based on feasibility and available resources. The Task Force will also establish the necessary systems for monitoring compliance with the plan, and develop a single form, available statewide, on which court users may register a complaint about the provision of, or the failure to provide, language access (see Recommendations #60–62).

This report further recommends that the Judicial Council direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools. The responsibilities of the translation committee will be to develop and formalize a translation protocol for Judicial Council translation of forms, written materials, and audiovisual tools, and will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of the translation of materials (see Recommendation #36).

Comments, Alternatives Considered, and Policy Implications

In February and March 2014, the Joint Working Group held three public hearings across the state.⁴ Major themes that emerged during the public hearing process are summarized in the Joint Working Group's August 2014 status report to the council.⁵ Following the public hearing process, the Joint Working Group prepared a draft Language Access Plan, which was posted from July 31 through September 29, 2014, on the California Courts website for public comment.

Formal public comments

Twenty-one separate public comments, consisting of 195 pages, were submitted regarding the draft Language Access Plan during the formal public comment period. Commentators included:

- 41 legal services and community organizations;
- ACLU of California and other community organizations;
- California Association of Family Court Services Directors;
- California Commission on Access to Justice;
- California Federation of Interpreters;
- California Rural Legal Assistance;
- California State Bar's Standing Committee on the Delivery of Legal Services;
- Indigenous language interpreters and community organizations;
- Individual superior courts (Alameda, Fresno, Los Angeles, Orange, Placer, and Ventura)
- Legal Aid Association of California; and
- Two attorneys, one court commissioner, and one court interpreter.

All formal public comments received were posted in their entirety to the LAP Joint Working Group's web page. One commentator expressed the position that she did not agree with the

⁴ After the hearings, oral and written comments, as well as prepared presentations from panelists, were posted to the Joint Working Group's web page, located at www.courts.ca.gov/LAP.htm.

⁵ California's Language Access Plan: Update on Development of the *Strategic Plan for Language Access in the California Courts*, available at www.courts.ca.gov/documents/jc-20140822-itemG.pdf.

proposed plan. Two commentators agreed with the proposed plan, one did not express an opinion, and the remainder agreed with the plan if modified.

Major themes that emerged from the formal public comments are summarized below:

- Some individuals commented that greater specificity is needed for certain terms used in the Language Access Plan; for example, what constitutes “court-ordered, court-operated” programs, services, or events.
- Commentators, including individual courts, expressed concern that courts may not have an adequate (or any) case management system that is currently able to collect and track data on LEP court users.
- Legal services providers and others raised concerns about the phasing-in of civil case types for which qualified interpreters would be provided, including a request that indigency be a factor for prioritization. Reference to recent legislation, not yet in place at the time of release of the draft plan, was also made.
- Many suggested that the use of family and friends to interpret, especially minors, should be avoided because those individuals are not qualified to interpret court proceedings, do not understand legal terminology, and are not trained in necessary interpreter ethics and the need to be impartial.
- Groups, including the California Federation of Interpreters and ACLU, proposed that the California judicial branch should establish clear guidelines and standards for the use of video remote interpreting (VRI) to ensure due process and proper application. A number of courts, and other stakeholders, were positive about VRI and supportive of its role in expanding language access, particularly in languages other than Spanish.
- Practitioners expressed the view that Family Court Services mediation is an essential and mandatory court service in all child custody disputes and should be included in the initial phase-in of civil expansion to provide court interpreters in civil matters.
- Legal services organizations requested that specific recommendations addressing compliance with the Language Access Plan—such as the implementation committee establishing necessary systems for monitoring compliance, and the development of a complaint process for language access services—be prioritized for more immediate implementation. They also asked that the body charged with implementation of the plan include key language access stakeholders.
- Some commentators, including court administrators, expressed concern that a population threshold that would require translations of written or audiovisual materials into a community’s top five languages would be overly burdensome on courts. Other commentators, such as legal services agencies and community groups, requested a more expansive threshold that would increase the number of languages for translations.
- Court administrators in particular provided comments on the critical need for increased funding for the judicial branch, concerned that, without additional funds, compliance with the language access plan would present difficulties or lead to a reduction of court services in other areas.

Attachment 2 to this report is a public comment chart including the Joint Working Group's responses to individual comments.⁶ As described in the comment chart and below in this report, the Joint Working Group reviewed all public comment and incorporated numerous suggested changes into the final plan.

Alternatives considered

The Joint Working Group met in person on October 21 and 22, 2014, to discuss public comment and revisions to the draft Language Access Plan. Several of the suggestions made by commentators were included in the final plan. The working group then held a final meeting by teleconference on December 5, 2014, to discuss final changes to the plan and approved the attached plan for submission to the Judicial Council. The major areas that the Joint Working Group discussed at these meetings, along with subsequent changes made to the plan, are summarized below:

- *Tone* — The Joint Working Group agreed that the tone of the Language Access Plan needed to be revised to not focus so much on challenges or constraints experienced by the courts, but to instead focus on future opportunities and the need to make language access a part of core court services.
- *Implementation* — The Joint Working Group added language to the front of the plan regarding the formation of a Language Access Implementation Task Force (see also discussion below in the section regarding Implementation Requirements), and clarified that the membership of the task force should include language access stakeholders from both inside and outside the court (including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users). The working group also agreed with commentators that specific recommendations addressing compliance with the plan, such as establishing necessary systems for monitoring compliance, and development of a complaint process for language access services, should be prioritized and were moved to Phase 1.
- *Definitions/Concepts* — The Joint Working Group agreed with commentators that more clarity was needed for concepts utilized throughout the plan, and a section identifying and explaining major plan concepts was added to the front of the document.
- *Civil expansion* — The Joint Working Group agreed that Recommendation #8 regarding civil expansion should conform to language in Evidence Code section 756, which is effective January 1, 2015,⁷ and further, that the goal should be to provide court interpreters in all civil matters by the end of Phase 2 (i.e., by the end of 2017). Family Court Services mediation was also added to Recommendation #8 as a priority for providing court interpreters (also within Phases 1 and 2).

⁶ For ease of understanding, all commentators who submitted formal public comment on the draft Language Access Plan are listed alphabetically in the first four pages of Attachment 2, and then each commentator's specific comments on plan provisions are broken up and listed in the order that the provisions appeared in the draft plan (e.g., Goal 1, Goal 2, etc.).

⁷ Evidence Code section 756 provides a prioritization for civil case types in the event that a court does not have access to sufficient resources to handle all civil matters (see Attachment 1, Appendix H).

- *Use of friends and family to interpret* — The Joint Working Group agreed with commentators that the use of family and friends, especially minors, to provide court interpretation should be avoided for the reasons cited above. The consensus was to delete former Recommendation #17 regarding use of family and friends to interpret, since it was duplicative of the provisional qualification process. The recommendation prohibiting the use of minors to interpret for court proceedings (#23) was also clarified.
- *Court-ordered programs* — The Joint Working Group added Recommendation #11 to clarify that LEP court users should not be ordered to any court-ordered programs that cannot provide appropriate language accessible services, and that courts must work with LEP court users, including, if applicable, alternative and language accessible programs, to ensure their ability to meet the requirements of court orders.
- *Video remote interpreting (VRI)* — The Joint Working Group discussed VRI and agreed it was important to add language to the plan stating that the quality of interpretation is of paramount importance and should never be compromised. Two new recommendations were added: Recommendation #14 states that the Implementation Task Force will establish minimum technology requirements for remote interpreting; and Recommendation #16 states that the Judicial Council should conduct a VRI pilot project, in alignment with the judicial branch’s Tactical Plan for Technology 2014–2016, to collect data on the impacts of VRI usage and provide a cost-benefit analysis.
- *Phasing* — A number of the recommendations were discussed as being of greater priority and were moved to an earlier phase. For example, Recommendation #61 (former #63), which requires the Implementation Task Force to establish systems to monitor compliance and provide plan oversight, was moved up to Phase 1.
- *Waiver* — The working group also clarified the recommendation regarding waiver (Recommendation #75) to help the Implementation Task Force with development of appropriate standards for waiver (including that the policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services).

Policy implications

The Language Access Plan proposes a measured, incremental approach to expand and enhance language access in the California courts for California’s 7 million LEP residents and potential court users. California has over 1,800 highly trained certified and registered court interpreters, significantly more than any other state, who provide 215,000 interpreter service days annually at a cost of over \$92 million each year.⁸ Expansion of language access services will by necessity require creative solutions and securing additional court funding.

The plan includes eight goals and 75 recommendations designed to address and meet the various language access needs of LEP court users at all points of contact with the courts. In preparing the final plan, the Joint Working Group was very deliberate in its use of the terms “will,” “must,” and “should” throughout the recommendations of the plan, and has made further revisions to

⁸ Total statewide court interpreter expenditures incurred during 2013–2014 that are eligible to be reimbursed from the Trial Court Trust Fund (TCTF) Program 45.45 (court interpreter) totaled \$92,471,280.

clarify the wording of individual recommendations. Where the recommendations addressed policy statements on language access, or addressed activities that are required by law or are under the power and control of the Judicial Council, the terms “must” and “will” were generally used. Where the Joint Working Group made recommendations for local courts to take certain actions to expand language access at the local level, the term “should” was utilized.

Each LAP goal has an issue description, which captures the concerns heard at listening sessions conducted at the beginning of 2014, at the public hearings, or through public comment, followed by recommendations that outline strategies for providing language accessibility.

Goals:

1. Improve Early Identification of and Data Collection on Language Needs
2. Provide Qualified Language Access Services in All Judicial Proceedings
3. Provide Language Access Services at All Points of Contact Outside Judicial Proceedings
4. Provide High Quality Multilingual Translation and Signage
5. Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers
6. Provide Judicial Branch Training on Language Access Policies and Procedures
7. Conduct Outreach to Communities Regarding Language Access Services
8. Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management

One of the plan’s key goals (Goal 2) is to ensure that, “By 2017, and beginning immediately where resources permit, qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and, by 2020, in all court-ordered, court-operated events.” Many civil cases such as evictions, guardianships, conservatorships, and family matters involving custody of children and termination of parental rights are critical to the lives of Californians. Court-ordered and court-operated programs, services and events, such as settlement conferences or mandatory mediation, are also essential to the fair resolution of disputes. It is therefore the intent of the Language Access Plan that the phase-in of interpreter services in civil proceedings and court-ordered, court-operated events be instituted immediately and be ongoing throughout the process of implementation of full language access.

The plan recommends a strategy for courts to gradually phase in the expansion of spoken language interpreter services in all court matters, as well as the creation of scheduling protocols to ensure the most efficient use of interpreters. The plan also proposes the thoughtful and responsible deployment of technological solutions, such as appropriate use of video remote technology and multilingual audiovisual tools, which provide language access while ensuring due process and high quality language services. The recommendations in the plan also set the framework for seeking the additional funding that will be needed to enable the courts to meet the increased demand on court resources that will arise from the branch’s commitment to language access, without sacrificing any other court services.

Implementation Requirements, Costs, and Operational Impacts

The most significant operational impact for courts will be the expansion of court interpreters in all civil matters, which should already be underway in many courts. The Language Access Plan also identifies and advocates for the use of cost-effective methods to enhance language access throughout the courthouse, such as early identification of LEP court users, enhanced data collection, appropriate notice of language access services, multilingual self-help services and brochures, multilingual information on court websites (both audio recordings and written information), remote language services for interactions with court staff, and translated court signage and Judicial Council and local court forms. The plan places a significant focus on the appropriate qualification and use of a broad spectrum of language access providers, from court interpreters to bilingual employees to volunteers at the various points of contact that LEP court users have with the courts. The Language Access Implementation Task Force will need to provide guidance for courts on all of these issues, from proper qualification of providers, to best or existing practices and innovative approaches regarding operational changes suggested in the plan, to the implementation of expansion of interpreters in civil proceedings.

The plan also identifies categories of training for judicial officers, court administrators, and court staff on how to understand and address the needs of LEP court users. Training and education will include education in cultural competence, the optimal methods of managing a court proceeding in which interpreting services are being provided, the provision of language access services throughout the court system, and state and local language access policies.

Other subjects addressed in the plan include the recruitment and training of bilingual court staff and interpreters, the formation of partnerships with community organizations serving LEP populations, and the need for an infrastructure to address implementation, monitoring, and quality control of all language access services.

The 75 recommendations in the plan enumerate the policies and operational changes that will need to take place to make comprehensive language access a reality in the California courts. To turn these recommendations and policies into a practical roadmap for courts, the plan recommends that the Judicial Council immediately form a Language Access Implementation Task Force, which would report to the Judicial Council's Executive and Planning Committee. The Implementation Task Force would develop and recommend the methods and means to fully implement the Language Access Plan in all 58 counties, and would coordinate with related advisory groups and Judicial Council staff on implementation efforts, as appropriate. The Implementation Task Force would also make best estimates of the costs of implementation and the feasibility of the phasing process based upon resources available. The implementation process would include the monitoring and updating of the LAP, in particular, as the trial courts provide information, feedback, suggestions, and innovative solutions. The Joint Working Group also recommends that the Judicial Council direct staff to report to the Executive and Planning Committee regarding the establishment of a translation committee to oversee translation protocols for Judicial Council forms, written materials, and audiovisual tools.

Relevant Strategic Plan Goals and Operational Plan Objectives

The *Strategic Plan for Language Access* supports Goal I of the Judicial Council’s 2006–2012 strategic plan—Access, Fairness, and Diversity—which sets forth that:

- All persons will have equal access to the courts and court proceedings and programs;
- Court procedures will be fair and understandable to court users; and
- Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds.

The plan also aligns with the 2008–2011 operational plan for the judicial branch, which identifies additional objectives, including:

- Increase qualified interpreter services in mandated court proceedings and seek to expand services to additional court venues; and
- Increase the availability of language access services to all court users.

The plan also aligns with the Chief Justice’s Access 3D framework and enhances equal access by serving people of all languages, abilities, and needs, in keeping with California’s diversity.

Attachments

1. *Strategic Plan for Language Access in the California Courts*
2. Chart of comments on Proposal SP14-05 [the draft plan posted 7/31/2014]

CALIFORNIA JUDICIAL BRANCH

Strategic Plan for Language Access in the California Courts

January 6, 2015

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Letter from the Chief Justice of California

California’s incredible diversity is one of its greatest assets—it also presents great challenges—but challenges as significant as these also provide opportunities to thoughtfully consider the issues and craft an effective plan to address them.

The numbers tell the story of the access challenges facing Californians: approximately 40 percent of us speak a non-English language at home; there are more than 200 languages and dialects spoken; roughly 20 percent of us (nearly 7 million) have English language limitations.

To address this enormous linguistic challenge for our court system, the Joint Working Group for California’s Language Access Plan’s charge is to develop a comprehensive, statewide language access plan that will provide recommendations, guidance, and a consistent statewide approach to ensure language access for all of California’s limited English proficient (LEP) court users.

The Working Group is addressing one of my highest priorities for the judicial branch by looking at how we can provide full, meaningful, fair, and equal access to justice for all Californians. If individuals cannot understand what is happening in court, how to fill out legal forms, or how to find their way around the courthouse, there is no meaningful access. We need to identify the language barriers that litigants face every day in our courts and how we can better address those needs.

In August 2013, I announced my vision for improving access to justice for Californians, “Access 3D.” Access to our justice system must be examined through a framework that looks at equal access, physical access, and remote access. We ensure physical access by keeping courthouses and courtrooms open, well-maintained and accessible to persons with disabilities; we ensure remote access by providing online resources and electronic access to our court system; and we ensure equal access by making judicial proceedings and all related court contacts available and comprehensible to all. Efforts to enhance language access for LEP court users are a critical component of this Access 3D framework.

Access to the courts for all LEP individuals is critical not just to guarantee access to justice in our state, but to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our court system.

Tani G. Cantil-Sakauye
Chief Justice of California

Joint Working Group for California’s Language Access Plan

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The Joint Working Group for California’s Language Access Plan affirms that equal access to justice for all is the cornerstone of our judicial process.

I. Introduction

Access to the courts for all Californians is critical to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our courts. Without meaningful language access, Californians who speak limited English are effectively denied access to the very laws created to protect them.

The Strategic Plan for Language Access in the California Courts (“Language Access Plan”) is a foundational component of the judicial branch’s commitment to addressing language access. It is the product of more than a year of research and policy development, and the gathering of critical input from stakeholders and justice partners. The plan sets forth (1) an extensive discussion of the multifaceted issues related to the expansion of language access, and (2) a comprehensive set of goals and recommendations delineating a consistent yet flexible statewide approach to the provision of language access, at no cost to court users.

The 75 recommendations in the plan enumerate the policies and operational changes that will need to take place to make comprehensive language access a reality in the California courts. In order to turn these recommendations and policies into a practical roadmap for courts, the plan recommends the immediate formation of a Language Access Implementation Task Force (name TBD, but referred to herein as “Implementation Task Force”). The Implementation Task Force

would develop and recommend the methods and means for fully—and realistically—implementing the Language Access Plan in all 58 counties, and would coordinate with related advisory groups and Judicial Council Staff on implementation efforts, as appropriate. The Implementation Task Force would also make best estimates as to the costs of implementation and the feasibility of the phasing process based upon resources available. The implementation process would include the monitoring and updating of the plan, in particular, as the trial courts provide information, feedback, suggestions and innovative solutions.

a. Fundamental Issues for the Judicial Branch

California is home to the most diverse population in the country. There are approximately 7 million limited English proficient (LEP) residents and potential court users speaking more than 200 languages and dispersed over a vast geographic area. The most commonly spoken languages vary widely both within and among counties; indigenous languages¹ have become more common and also more visible, particularly in rural areas; and the influx of new immigrants brings with it emerging languages² throughout the state. This richly diverse and dynamic population is one of our greatest assets, and a significant driver of the state’s

¹ Throughout this language access plan, the term “indigenous languages” is used for minority languages that are native to a region and spoken by indigenous peoples. Many of these languages have limited or no written components. These indigenous languages present unique language access challenges because it is often difficult to find interpreters and language access providers who are able to speak both the indigenous language and English with enough proficiency for meaningful communication. Therefore, it is often necessary to provide relay interpreting, where the first interpreter renders the indigenous language into a more common foreign language (e.g., from one form of Mixteco to Spanish) and another interprets from the more common language to English (in our example, Spanish to English).

² “Emerging languages” are those that are spoken by newly arrived immigrants who have not yet established themselves in significant enough numbers or for long enough periods of time to be as visible to service providers, census trackers, or other data collectors. They are varied and ever changing, as migration patterns shift.

economic and social growth and progress. It also means that the state's institutions, including the judicial branch, must continually adapt to meet the needs of its constituents.

The diversity of California's population is matched by the diversity among, and within, its 58 counties. California has urban counties and rural counties, large and small, and counties with big cities, small towns, and scarcely populated land each with its own superior court. Alpine County has 2 judges and 1 courthouse location, with no staff interpreters, and a total population of about 1,200. Los Angeles County, by contrast, has 477 authorized judges, 91 commissioners, and 26 referees.³ The Los Angeles court employs over 300 staff interpreters spread among its 600 courtrooms in 38 courthouses; they serve 10 million residents, spread across 4,800 square miles. In addition to the vast county differences, the state is split into four regions for purposes of collective bargaining with the interpreters' union. This often results in variations in agreed-upon work rules and conditions for employee interpreters.

To meet the needs and demands created by this diversity, the California trial courts have a long history of developing creative solutions to address language access needs, particularly in the provision of highly-trained certified and registered court interpreters. Currently there are more than 1,800 of these interpreters, providing 215,000 interpreter service days annually at a cost of over \$92 million each year.⁴ In addition, courts have employed hundreds of highly skilled bilingual employees, utilized dozens of bilingual JusticeCorps volunteers in several courthouses,

³ Data as of June 2013.

⁴ Total statewide court interpreter expenditures incurred during 2013–2014 that are eligible to be reimbursed from the Trial Court Trust Fund (TCTF) Program 45.45 (court interpreter) amounts to \$92,471,280.

and provided self-help assistance and other informational court services in multiple languages.⁵ Individual courts have also developed their own innovative programs to increase the provision of services in languages other than English.⁶ Many court forms have been translated, multilingual informational videos created, and collaborations with local community organizations formed to address language and cultural barriers.

While the efforts made to date have been substantial, many Californians still face significant obstacles to meaningful access to our justice system. The California courts also face unique challenges every day, particularly in courtrooms with high volume calendars in which the vast majority of litigants are self-represented (such as traffic, family law, and, of course, small claims, where parties must represent themselves). Courts must confront these challenges with limited resources, having endured severe budget cuts during the past several years that have crippled their ability to maintain adequate levels of service. Although some funding has been restored to the courts, the branch is not funded to the levels it was just a few years ago, much less to the level it must be to be able to provide all the services Californians need and expect in the resolution of their legal disputes.

⁵ See, for example, the California Courts Online Self-Help Center in English at www.courts.ca.gov/selfhelp.htm and in Spanish at www.sucorte.ca.gov; the JusticeCorps program detailed at www.courts.ca.gov/justicecorps.htm.

⁶ Depending on local resources and regional bargaining agreements, court interpreters in California currently provide a variety of interpreter services for LEP court users, including simultaneous or consecutive interpretation of court proceedings, court-ordered programs for which an interpreter is required such as court-ordered: psychiatric evaluations; interviews with defendants and witnesses; sight translation of court documents; probate investigations; mediations sessions and child-custody evaluations, or other interpreter services as may be required by the court. See also the University of California Hastings College of the Law's study on *Enhancing Language Access Services for LEP Court Users* (2013), found at www.courts.ca.gov/documents/jc-20130426-info3.pdf, discussing the various approaches by local courts throughout the state to providing language access.

While the provision of comprehensive language access across our system of justice will undoubtedly require additional resources and funding, the branch also understands that fundamental and systemic changes in our approach to language access, at the statewide and local levels, are both necessary and feasible. The Chief Justice recognized that developing a comprehensive statewide language access plan was a critical first step in addressing the needs of the state's LEP population in a more systematic fashion. In June 2013, the Chief Justice appointed a Joint Working Group to develop this California courts' Language Access Plan, with the intent that it set forth useable standards for the provision of language access services across the superior courts statewide, while allowing local courts to retain control over the allocation of their internal resources.

This plan acknowledges, through some of the recommendations, that many beneficial practices are already in place in courts around the state. These successful practices are being included as recommendations in this plan to show appreciation for emerging best practices and to highlight effective approaches that local trial courts have taken, on their own, to promote language accessibility. The intent of these recommendations is to provide, as much as possible, a blueprint for trial courts to follow and use as guidance as they expand language access to the public they serve. The plan also recommends that the California Courts of Appeal and Supreme Court of California discuss and adopt applicable parts of the plan with any necessary modifications. This strategic plan is not, however, an operational or implementation plan. If this plan is approved, implementation, planning and oversight will begin in 2015.

Fundamental to California's Language Access Plan is the principle that the plan's implementation will be adequately funded so the expansion of language access services will take place without impairing other court services. The Language Access Plan recognizes that where resources are limited, where additional funding will take time to secure, or where implementing one recommendation can only occur after another is completed, the plan needs to provide for a phasing-in of its recommendations over time. The Implementation Task Force will be responsible for calculating implementation costs, creating implementation recommendations for the Judicial Council, and adjusting implementation based on feasibility assessments over time including the financial resources available.

In addition, is the intent of this plan that all of its recommendations be applied consistently across all 58 trial courts. To the extent that provisions in local bargaining agreements are in conflict with any recommendations contained in this plan, it is recommended that local agreements be modified or renegotiated as soon as practicable to be consistent with plan recommendations and to ensure that, at a general level, courts provide language access services for LEP persons that are consistent statewide. However, the drafters of the plan recognize that differences in local demographics, court operations and individual memoranda of understanding with court employees may constrain individual courts' abilities to fully implement certain of the plan's recommendations on the timeline proposed.

b. Summary of the Plan

California’s Language Access Plan proposes a comprehensive and systematic approach to expand and enhance language access in the California courts. While the plan allows for a large degree of flexibility for the state’s diverse courts and communities, it also provides baseline standards to ensure statewide consistency with federal and state law⁷ so that all Californians can expect language access services regardless of where they live within the state’s borders.⁸

The Language Access Plan includes an assessment and prioritization of all of the points of contact between LEP court users and the courts. In this way, a greater level of skill and resources can be targeted at the most complex and important events, such as hearings, trials, and other court proceedings, while more flexible services can be provided at other points of contact, such as self-help centers and the clerk’s office. The plan also considers and addresses points of contact before LEP court users even arrive at the courthouse, since they may be discouraged from accessing the judicial system if they perceive, accurately or not, that their

⁷ Relevant authority includes Title VI of the Civil Rights Act of 1964 and its implementing regulations (42 U.S.C. section 2000d et seq; 28 C.F.R. Part 42, Subpart C), the California Constitution, California Evidence Code section 756 (eff. 01/01/15), and California Government Code sections 68092.1 (eff. 01/01/15; see Appendix H for new statutes), 68560(e), and 7290 et seq. The plan also addresses issues identified by the U.S. Department of Justice in its investigation of the Judicial Council for compliance with Title VI regarding the provision of language access services in the California state courts.

⁸ The legal requirements relating to access for deaf or hard of hearing court users are governed by the Americans with Disabilities Act (ADA) and other relevant statutes. However, deaf or hard of hearing court users and their interpreters should be considered as part of any language access plan implementation whenever appropriate, by, for example, including deaf or hard of hearing court users and their interpreters on “I Speak” cards or in centralized pilots. Provision of standards related to language access for deaf or hard of hearing court users will not be included in this plan since courts are already legally mandated to provide deaf or hard of hearing court users with disability and related language access (see ADA and section 504 of the Rehabilitation Act of 1973). Where access may not be provided to deaf or hard of hearing court users under the ADA, the courts will provide access as part of their compliance with this plan.

language needs will not be met. Targeting resource allocation to the most critical points of contact will also require improved data collection on the languages spoken in each county.

The plan also identifies and advocates for the use of cost-effective methods to enhance language access throughout the courthouse, such as multilingual self-help services and brochures, multilingual information on court websites (both spoken and written), remote language services for interactions with court staff, and translated court signage and legal forms. A significant focus is placed on the appropriate qualification and utilization of a variety of language access providers, from court interpreters to bilingual employees to trained volunteers, at the various points of contact that LEP court users have with our courts.

Additionally, the plan identifies the kinds of training needed for judicial officers, court administrators, and court staff on how to understand and address the needs of LEP court users, including education in cultural competence, the optimal methods of managing a court proceeding in which interpreting services are being provided, the provision of language access services throughout the court system, and state and local language access policies. Other subjects addressed in the plan include the recruitment and training of bilingual staff and interpreters, and the formation of partnerships with community organizations serving LEP populations.

The branch is constantly aware of the need to build in efficiencies and cost savings. The plan therefore recommends a strategy for phasing in the expansion of spoken language interpreter

services in all court matters consistent with new [Evidence Code section 756](#), where existing resources prohibit immediate expansion to all cases; and it recommends the creation of scheduling protocols to ensure the most efficient use of interpreters. The plan also proposes the thoughtful and responsible deployment of technological solutions, such as appropriate use of video remote technology and multilingual audiovisual tools, which provide language access while ensuring due process and high quality language services. The recommendations in the plan also set the framework for identifying the additional funding that will be needed to enable the courts to meet the increased demand on court resources that will arise from the branch's commitment to language access without sacrificing any other court services.

c. Timeline of Recommendations

This strategic plan outlines three phases of implementation. This is proposed because some of the recommendations in this Language Access Plan can be implemented immediately; others may require the creation of efficiencies in existing court operations and the more effective deployment of current resources. Other recommendations require changes in legislation and rules of court, or additional funding for the judicial branch. The Implementation Task Force will have the flexibility to adjust phasing of the recommendations based upon its on-going review and monitoring of the progress of implementation and available resources.

To assist courts and all interested persons in understanding how the various recommendations contained in the Language Access Plan can be gradually phased in for implementation by the courts and the Judicial Council during the next five years (2015–2020), Appendix A groups all of the plan's recommendations into one of three phases.

- **PHASE 1:** These recommendations are urgent or should already be in place. Implementation of these recommendations should begin in year 1 (2015).
- **PHASE 2:** These recommendations are critical, but less urgent or may require completion of Phase 1 tasks. Implementation of these recommendations may begin immediately, where practicable, and in any event should begin by years 2–3 (2016–2017).
- **PHASE 3:** These recommendations are critical, but not urgent, or are complex and will require significant foundational steps, time, and resources to be completed by 2020. Implementation of these recommendations should begin immediately, where practicable, or immediately after the necessary foundational steps are in place.

Regardless of which phase a recommendation falls under, every recommendation in this plan should be put in place as soon as the resources can be secured and the necessary actions are taken for implementation. The provision of meaningful language access to all Californians who need it, and equal access to justice, are and should be considered a core court function. Courts should continue to provide all existing language access services even if the particular service appears in a later phase of this plan. Similarly, the proposed phase-in must allow for flexibility if the Implementation Task Force determines that different phasing is more appropriate to achieve the goal of comprehensive language access.

d. The Planning Process

The Joint Working Group’s effort to develop a comprehensive statewide language access plan began with the review of a large body of information, including language access plans of other states, the American Bar Association (ABA) Standards for Language Access in Courts, the California Federation of Interpreter’s position paper on video remote interpreting, prior reports on language access needs and solutions in California courts, and the National Center for State Courts’ Call to Action. Additional reports and materials were received over the course of the planning process. A complete list of the background information considered and utilized by the working group can be found in Appendix G. The working group also held three in-person meetings and numerous conference calls to debate ideas.

To complete the information-gathering process, the working group held meetings with court leaders and other stakeholders, held public hearings, and invited and received both written and oral public comment. This input included:

- Listening sessions with language access stakeholders, namely:
 - Independent interpreter organizations;
 - Legal services providers representing various communities throughout the state;
 - The California Federation of Interpreters; and
 - Presiding judges and court executive officers.
- Three public hearings (in San Francisco, Los Angeles, and Sacramento) with comments from 29 panelists providing input from local, statewide, national, health-care, court, education, and legislative perspectives. Audio for the three hearings was broadcast on

the web and included closed captioning in English and Spanish. American Sign Language (ASL) and spoken language interpreters were provided for audience members and persons providing oral comment.

Panelists included:

- Court executive officers representing the diversity of needs and challenges faced by different courts throughout the state;
- Legal services organizations and community advocates representing client populations in large urban areas such as Los Angeles, in Asian-American Pacific Islander and Latino communities throughout California, and in rural communities with significant numbers of indigenous language speakers;
- The president of the California State Bar, Assembly Member Ed Chau, and a representative from the California Department of Education;
- The president and representatives of the largest organization representing court interpreters in California, the California Federation of Interpreters (CFI); and
- A national expert from the National Center for State Courts, the director of the New Mexico Administrative Office of the Courts, and the Senior Director of National Diversity and Inclusion for Kaiser Foundation Health Plan, Inc.

During the public comment portion of the public hearings the working group heard extensive oral comments and received a significant body of written comments and prepared statements,

including comments from LEP court users (some of whom spoke in their primary languages, with their comments interpreted into English), court interpreters, community representatives, legal services providers, and education providers.⁹

Additionally, there was a public comment period of 60 days following Judicial Council's approval and release of the draft of the Language Access Plan.

The Joint Working Group would like to thank all commentators and also acknowledge that the U.S. Department of Justice, in conjunction with its investigation, has been extremely supportive and helpful throughout the working group's planning process as it worked to develop the best possible Language Access Plan for the California courts.

Key themes from stakeholder input:

Stakeholders provided a wealth of information during the listening sessions and in the public hearing and comment process. In preparing this Language Access Plan, the Joint Working Group has studied and considered this thoughtful and invaluable information at length. Although the range of topics covered, the insights shared, and the experiences relayed were extensive, some salient themes surfaced throughout the planning process:

- Although California's judicial branch is committed to providing full, meaningful, fair, and equal access to justice for all Californians, including limited English proficient litigants,

⁹ See www.courts.ca.gov/LAP.htm for links to written public comments and prepared testimonies for the three public hearings.

much remains to be done, especially in the civil arena, to ensure all court users have meaningful access to the state's courts.

- Any efforts to improve the provision of language access services must include a more comprehensive mechanism for collecting data on LEP communities and their potential need for court services. Traditional sources of demographic data underestimate the existing numbers of LEP residents in the state, in particular with regard to linguistically isolated communities, migrant workers, and speakers of indigenous languages. Similarly, these data sources do not adequately track emerging languages.
- LEP speakers who need to use the judicial system for a variety of civil issues—from child custody to restraining orders to evictions—are unable to meaningfully access court processes because of language barriers. In critical proceedings such as hearings and trials, LEP court users are often forced to resort to family members or friends to communicate with the court. These untrained interpreters are rarely equipped to relay the court's communication accurately and completely to the LEP litigant, and vice versa. Failure to ensure proper communication can lead to the loss by LEP court users of important legal rights, an inability to access remedies, or basic misunderstandings and confusion.
- Language access must be provided at all critical or significant points of contact that LEP persons have with the court system. LEP parties are often unable to handle even the very first steps in seeking legal recourse, such as knowing what remedies or legal protections may be available and where to seek them out, knowing what legal procedures to follow, and understanding how to fill out court forms as well as how and

where to file them. Language access must start before an LEP court user reaches the courthouse doors; it must begin with community outreach and education efforts, web-based access, and the utilization of ethnic media outlets to educate the public. And it must then be available upon entering the courthouse and throughout all components of court services, such as self-help centers, alternative dispute resolution services, and the clerks' counters.

- Projections about the cost of expanding language access throughout all court proceedings and points of contact vary widely but are by and large unknown. There are questions about whether the existing pool of court interpreters who are certified or registered by the Judicial Council and available to work throughout the state is sufficient to meet the possible demand as services are expanded, with differing views regarding the existing capacity. Although it is difficult at this stage to estimate the cost of expanded access when including all attendant costs, from technology to interpreter deployment to translation to training and qualification of staff to improved courthouse signage, information can and must be collected to make rational projections.
- Technologies such as video remote interpreting (VRI), telephonic interpretation, web-based access, multilingual audiovisual tools, and others have an important role to play in the statewide provision of language access. However, courts must exercise care to ensure that the use of technology is appropriate for the setting involved, that safeguards are in place for ensuring access without deprivation of due process rights, and that high quality is maintained.

- The California judicial branch has seen a drastic reduction in funding in recent years. Although some funding has been restored, due to various factors this has not resulted in any net increase in the total funding for the branch. Consequently, courts throughout the state are still struggling to provide the most basic level of service to their communities. Expansion of language access services, though supported by all stakeholders, poses fiscal demands that must be satisfied by efficiencies in the provision of language services and, most importantly, by additional funding appropriated for that purpose and not by shifting already scarce resources from other court services.
- Any effort to ensure meaningful language access to the court system for all Californians must include partnerships with stakeholders. These stakeholders include: community-based providers like social services organizations, domestic violence advocates, mental health providers, and substance abuse treatment programs; justice partners such as legal services organizations, court interpreter organizations, district attorneys, public defenders, law enforcement, jails, probation departments, and administrative agencies; and other language access experts.
- The judicial branch should become more proactive in recruiting potential interpreters at the earliest stages of their education, particularly in high schools and community colleges. Courts should create partnerships with educational providers to develop a pipeline of potential interpreters and bilingual court employees.
- There is a critical need for training of judicial officers, court staff, and security personnel in (1) identifying and addressing the needs of court users at all points of contact with the court, (2) understanding distinct characteristics of the various ethnic communities that

can ensure respectful treatment of LEP court users, (3) ensuring that interpreters are, in fact, certified or are properly provisionally qualified, and (4) conducting courtroom proceedings in a manner that facilitates the maximum quality of interpretation.

e. Relevant Judicial Branch Goals

California’s Language Access Plan effort supports Goal 1 of the Judicial Council’s most recent strategic plan—Access, Fairness, and Diversity—which sets forth that:

- All persons will have equal access to the courts and court proceedings and programs;
- Court procedures will be fair and understandable to court users; and
- Members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds.

The Language Access Plan also aligns with the most recent operational plan for the judicial branch, which identifies additional objectives in support of Goal 1, including:

- Increase qualified interpreter services in court-ordered/court-operated proceedings and seek to expand services to additional court venues; and
- Increase the availability of language access services to all court users.

f. Structure of the Language Access Plan

The Language Access Plan identifies eight major goals around which the plan is organized. Each goal includes an issue description to (1) provide background on the problem/issue that the goal is intended to address, (2) discuss the relevant input received by the Joint Working Group

during the public participation process, and (3) highlight California's unique opportunities and challenges. The issue descriptions contained within each of the eight goals inform the recommendations that are designed to help achieve that particular goal. The plan also includes appendices that provide more detailed information on plan components, such as guidelines for the provision of video remote interpreting and tools to assist in the delivery of language access services.

g. Concepts Utilized Throughout the Language Access Plan

The Language Access Plan uses certain terms or phrases with a very deliberate purpose and concrete meaning. To avoid confusion, here are the common concepts used throughout and the intended meaning for purposes of the Language Access Plan:

Civil cases or proceedings: Any non-criminal matter in the state courts, including civil limited and unlimited, family law, juvenile dependency, probate, small claims, mental competency, and others.

Court proceedings: Any civil or criminal proceedings presided over by a judicial officer, such as a judge, commissioner or temporary judge, or managed by officers of the court or their official designees, such as special masters, referees and arbitrators.

Court-ordered, court-operated programs, services or events: Any programs, services or events that are both ordered by the court AND operated or managed by the court. It does not include a program or activity that is operated or under the control of a third-party provider. It does

include programs, such as Family Court Services orientation and mediation, or any other event directed by the judicial officer and occurring in relation to a pending case (e.g., “day of court” mediations in Family Law or Unlawful Detainer matters, or settlement discussions directed to occur by the judicial officer).¹⁰

Language threshold: Several recommendations in the Language Access Plan provide for translation of written or audiovisual materials. Because the language needs and demographics vary significantly among California’s 58 counties, and within counties themselves, the Language Access Plan proposes a method for determining how many and which languages any materials should be translated into. The proposed general language threshold is: “In English and up to five other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations and other entities working with LEP populations.” It is the Joint Working Group’s intent that the Implementation Task Force conduct a review of available data and, in consultation with experts, provide more specific guidelines to local courts regarding the number of languages, and population thresholds, for which they should provide translation.

Provisional qualification: The process courts must follow when no certified or registered interpreter is available to interpret, and the court needs to appoint someone else to interpret for a given proceeding. Provisional qualification is accomplished through a series of mandated

¹⁰ With respect to programs or services that may be court-ordered but are not operated or managed by the court (such as referrals to counseling or parenting classes), other court-related services (such as court-appointed guardians, custody evaluators who are not court staff, or forensic accountants), and non-mandatory programs such as voluntary mediation, this Language Access Plan recommends that judicial officers must determine that linguistically accessible services are available before LEP court users are ordered or referred to those services.

steps, including a finding of good cause, and the completion of a Judicial Council form, as laid out in [California Rule of Court 2.893](#), which delineates the procedure for provisionally qualifying someone to interpret in a criminal or juvenile proceeding.¹¹

Qualified interpreters:

(1) Certified and registered interpreters as credentialed by the Judicial Council and who are in compliance with the [Professional Standards and Ethics for California Court Interpreters](#), and

(2) “Provisionally qualified” interpreters (non-certified and non-registered) who are determined to be qualified on a provisional basis.

¹¹ Since no rule of court exists at this time for civil proceedings, this plan recommends amending the rule of court for provisional qualification in criminal and juvenile proceedings to include civil proceedings, as well as interim requirements until the rule is amended. The two parts of the current process for the court to appoint a noncertified or nonregistered interpreter are discussed in greater detail in Goal 2: (1) provisional qualifications of a noncertified or nonregistered interpreter, and (2) unavailability of a certified or registered interpreter.

II. STRATEGIC GOALS AND POLICIES

Goal 1: Improve Early Identification of and Data Collection on Language Needs

Goal Statement

The Judicial Council will identify statewide language access needs of limited English proficient (LEP) Californians, and the courts will identify the specific language access needs within local communities, doing so as early as possible in court interactions with LEP Californians.

Issue Description

Stakeholders unanimously agreed that the failure to identify the language needs of LEP court users early enough in the court process causes ripple effects throughout the system. When the need for a court interpreter is not identified in advance of a court appearance, courts and litigants may be forced to rely on untrained interpreters, often family or friends of the litigant, to provide language services. As discussed in more depth in Goal 2, the use of untrained interpreters can have serious and potentially dangerous consequences.

As language access services are expanded into more types of cases, early identification of LEP court users will become even more critical. Early identification makes it possible for courts to schedule qualified interpreters efficiently when calendaring cases in the various courtrooms where they are needed. It similarly allows courts to assign bilingual staff more efficiently to appropriate areas within the courthouse, and to share court interpreters across counties

through the cross-assignment process when staff interpreters are not available in one court but free in another. Early identification also reduces delays for the courts by minimizing the need to continue cases when the need for an interpreter becomes apparent too late in the process. Also, by allowing courts to address an LEP litigant's legal matters without unnecessary delays, early identification increases court user satisfaction.

a. Early Identification of Language Needs

Issue Description

The identification of the language needs of LEP court users should occur through a number of mechanisms, from an LEP person's self-identification to identification by court staff, justice partners, and judicial officers. While courts should encourage an individual's self-identification as LEP, courts should not rely on that exclusively. Some LEP court users may fail to request language access services because they may misjudge the level of proficiency required to communicate in court or be afraid of discrimination or bias.

Further, assessing the need for language services must occur throughout the life of the case.

While providing information about language access at the filing of a case is critical, it is important to recognize and provide for the fact that an LEP person's need for such services may precede the filing of a case or may arise after a court ruling. Ideally, courts should have a system for documenting the requests that are made and whether the request was met, including proceedings and events both in and out of court.

Recommendations:

1. Courts will identify the language access needs for each LEP court user, including parties, witnesses, or other persons with a significant interest,¹² at the earliest possible point of contact with the LEP person. The language needs will be clearly and consistently documented in the case management system and/or any other case record or file, as appropriate given a court’s existing case information record system, and this capability should be included in any future system upgrades or system development. (Phase 1)
2. A court’s provision or denial of language services must be tracked in the court’s case information system, however appropriate given a court’s capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)
3. Courts should establish protocols by which justice partners¹³ can indicate to the court that an individual requires a spoken language interpreter at the earliest possible point of contact with the court system.¹⁴ (Phase 1)

¹² “Persons with a significant interest” include persons with a significant interest or involvement in a case or with legal decision-making authority, or whose presence or participation in the matter is necessary or appropriate as determined by a judicial officer. Examples of persons who may have a significant interest include: victims; legal guardians or custodians of a minor involved in a case as a party, witness, or victim; and legal guardians or custodians of adults involved in a case as a party, witness, or victim.

¹³ Justice partners include legal services providers, law enforcement agencies, public defenders, district attorneys, county and city jails, child protective services, domestic violence advocates and shelters, and others.

¹⁴ Options to be explored by the Implementation Task Force may include development of a Judicial Council form, modifying all relevant Judicial Council forms, creating a form to be filed with all initial pleadings, or working with justice partners to develop the protocols.

4. Courts will establish mechanisms¹⁵ that invite LEP persons to self-identify as needing language access services upon contact with any part of the court system (using, for example, “I speak” cards [see page 56 for a sample card]). In the absence of self-identification, judicial officers and court staff must proactively seek to ascertain a court user’s language needs. (Phase 1)

5. Courts will inform court users about the availability of language access services at the earliest points of contact between court users and the court. The notice must include, where accurate and appropriate, that language access services are free. Courts should take into account that the need for language access services may occur earlier or later in the court process, so information about language services must be available throughout the duration of a case. Notices should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Notice must be provided to the public, justice partners, legal services agencies, community-based organizations, and other entities working with LEP populations.¹⁶ (Phase 1)

¹⁵ The Judicial Council’s Civil and Small Claims Advisory Committee is creating a fee waiver form for interpreter requests.

¹⁶ For example, notices should be posted on the court’s website, on signage throughout the courthouse, at court information counters, in court brochures, in a document included with initial service of process, at court-community events, in public service notices and announcements in the media, including ethnic media, and in any embassies or consulates located in the county. To address low literacy populations and speakers of languages that do not have a written component, video and audio recordings should be developed to provide this notice.

b. Data Collection

Issue Description

Assessing the number of LEP persons likely to seek out court services, and the frequency of contact of these LEP persons with the courts, will help provide LEP court users with improved access to court services. In order to determine the language access needs both in any given court's community and statewide, the Judicial Council and individual courts should augment existing data collection methods. Currently, to plan for the provision of interpreter services, the Judicial Council is required to conduct a study of spoken language interpreter use in the trial courts, every five years. The next study is due to the Legislature in 2015.¹⁷ Key findings from the study published in 2010 covering the years 2004 through 2008 include the following:

- Courts provided more than 1 million service days¹⁸ of spoken language interpretation services in 147 languages;
- 17 languages accounted for 98.5% of all service days (see table, Appendix E);
- Spanish continued to be the most used language, representing 83% of all mandated service days in the state; and
- Statewide, the only significant changes in the number of service days by language were increases in Spanish (11%) and Mandarin (89%).

¹⁷ To better inform future decisions regarding interpreter use for limited English proficient (LEP) court users in civil proceedings, the *2015 Language Need and Interpreter Use Study* will also collect data and conduct analysis on interpretation needs in these areas. Findings and recommendations from this study will assist in the future designation of the languages to include in the certification program for court interpreters. An additional component of the study will explore use of interpreters in civil proceedings. Currently, there are court interpreter certification exams given for the following designated languages: American Sign Language, Arabic, Eastern Armenian, Cantonese, Khmer, Korean, Mandarin, Portuguese, Punjabi, Russian, Spanish, Tagalog, and Vietnamese. Farsi has been designated for certification, but is not yet certified. Even though Western Armenian and Japanese are certified languages, there is no bilingual interpreting exam presently available.

¹⁸ Service days in the 2010 study are defined as the sum of interpreter assignments including full days, half-days, and night sessions.

When engaging in these data collection activities and projecting language needs, courts should not rely exclusively on the numbers provided by the U.S. Census and American Community Survey (ACS). The type of detailed, local information that courts need to identify the language needs of their constituents may not be adequately captured by these more traditional methods of demographic data collection. Further, many ethnic and linguistic minorities and emerging LEP communities are underreported in these sources of data, as was commented by community-based organizations during the public hearings.

Organizations working with specific populations have collected their own data to identify areas where census data may not accurately reflect our state’s linguistic diversity. For example, California Rural Legal Assistance conducted a comprehensive study¹⁹ of migrant farm workers that provides useful information on indigenous languages spoken in different areas of our state. Other reliable sources of data that courts might contact to determine the unique needs of their communities are the California Department of Education, the Migration Policy Institute, and local welfare agencies that track the language needs of government assistance recipients at the local level. Engaging community-based agencies such as legal services agencies, refugee organizations, and community social services providers can provide local courts with a better understanding of the language needs of the communities they serve. Partnering with agencies that serve LEP court users in the court’s community can also lead to the development of

¹⁹ Available at www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf

culturally appropriate and effective strategies for the early identification of LEP court users needing court services.

With regard to the provision of language access services, courts currently track and report the amount of money spent on interpreter services. To gauge overall need, courts should also track and report expenditures on other services such as translations and multilingual signage or videos. All of these data collection efforts will provide critically necessary information to support funding requests, and will help courts determine how best to deploy court interpreters and bilingual staff and equipment to maximize the effective and efficient provision of language services.

Recommendations:

6. The Judicial Council and the courts will continue to expand and improve data collection on interpreter services, and expand language services cost reporting to include amounts spent on other language access services and tools such as translations, interpreter or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases. (Phase 1)
7. The Judicial Council and the courts should collect data in order to anticipate the numbers and languages of likely LEP court users. Whenever data is collected, including for these purposes, the courts and the Judicial Council should look at other sources of data beyond the U.S. Census, such as school systems, health departments, county social services, and local community-based agencies. (Phase 2)

Goal 2: Provide Qualified Language Access Services in All Judicial Proceedings

Goal Statement

By 2017, and beginning immediately where resources permit, qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and, by 2020, in all court-ordered, court-operated events.²⁰

a. Provision of Qualified Interpreters in Court Proceedings

Issue Description

Court proceedings such as hearings and trials are arguably the most critical events during which a limited English proficient speaker will need high quality language assistance services to communicate with the participants in the proceeding. Existing law mandates that interpreters be provided by the court for parties, at no cost to them, for all criminal cases including felonies, misdemeanors, and infractions (including traffic cases).²¹ Similarly, interpreters must also be provided if the defendant in a criminal case is a juvenile and the case proceeds as a juvenile delinquency matter. In juvenile dependency cases, interpreters must be provided by the court if the court appoints an attorney for the minor or a parent and the appointment of the interpreter is necessary to ensure the effective assistance of counsel.²²

²⁰ Within the context of this plan, and consistent with Evidence Code section 756 (d), the term “provided” (as in “qualified court interpreters will be provided”) means at no cost to the LEP court user and without cost recovery.

²¹ Cal. Const., art. I, § 14: “A person unable to understand English who is charged with a crime has a right to an interpreter throughout the proceedings.” Government Code section 68092(a) provides that the court shall pay for interpreters’ fees in criminal cases.

²² Cal. Rules of Court, rule 5.534(h)(1)(A) and (B); *In re Emilye A. v. Ebrahim A.* (1992) 9 Cal.App.4th 1695.

With regard to civil cases, however, California law regarding provision of interpreters has historically been quite complex. Until January 2015, state statutes and case law authorized or required the expenditure of court funds for in-courtroom interpreters only in certain civil case matters so courts, on a discretionary basis, have provided interpreters to parties only in proceedings involving domestic violence, ancillary family law matters, and elder or dependent adult abuse protective orders. For most civil matters, however, general statutes providing parties to pay for interpreters in civil actions arguably prohibited court funds from being spent for that purpose, or in a more permissive interpretation, only allowed court funds to be spent on needed interpreters when the parties are indigent.²³ Effective January 1, 2015, however, [Evidence Code section 756](#) will go into effect, expressly authorizing courts to provide interpreters in civil matters, at no cost to the parties, with a prioritization by case type and preference within some priorities for indigent parties.

The passage of Evidence Code section 756 addresses many of the comments from stakeholders and the public—and the view of the Joint Working Group—that civil cases such as family law matters, evictions, guardianships, and conservatorships are critical to the lives of Californians. A large percentage of litigants in these types of cases, including LEP litigants, represent themselves in court and thus do not have the assistance of an attorney to explain the procedures or the law, or to help them present their case to a judicial officer. The use of untrained interpreters may lead to significant misunderstandings and a resulting lack of redress for LEP litigants, and is even more problematic in these cases where the parties are

²³ Gov. Code, § 68092(b).

unrepresented. Their use can also cause confusion and slow the court process. Overall, relying on unqualified interpreters can result in serious and potentially dangerous consequences, such as necessary protective orders not being issued. Also challenging are situations when no interpreter (trained or untrained) can be found, and the matter has to be continued to a later date, causing monetary and resource losses for LEP court users and the courts. When justice is delayed, both litigants and the courts lose in the process.

Using a well-meaning but unqualified interpreter, who does not understand legal terminology or court procedures, and whose performance no one may be able to assess, can mask these miscommunications and errors, thus giving the appearance of meaningful access when none is in fact provided. Additionally, in an effort to communicate with LEP court users, judicial officers sometimes ask lawyers or advocates for these litigants to interpret for their clients or for witnesses, which creates significant conflicts of interest and ethical issues for these providers, while preventing them from properly focusing on the tasks for which they are present in the courtroom.

In many civil matters where fundamental interests are at stake, such as housing, personal safety, or the determination of a parental relationship, the cost to LEP litigants of retaining their own certified or registered interpreter (or the chance of being charged for interpreter services provided by the court after the case) can be prohibitive. It is for this reason that many of the stakeholders submitting spoken and written public comment emphasized the need for courts to provide interpreters free of cost to the LEP litigant. Some LEP litigants, particularly in more

complex limited and unlimited civil matters, may have the financial means to pay for their own interpreter (even if not initially, possibly after a money judgment is issued in their favor). However, the Joint Working Group is cognizant of a potential chilling effect on LEP litigants, including their initial decisions whether to pursue a legal course of action, if they are required to pay for their own court interpreters. For this reason, it is the goal of this plan, and consistent with new Evidence Code section 756, that certified and registered interpreters be provided by courts without cost to the LEP court user.

Even when the right to an interpreter is recognized by law, or when an interpreter is allowed to be provided by the court at court expense, there may not always be a qualified interpreter available. When no certified or registered interpreter is available to interpret in criminal matters, the court is required to make specific findings before provisionally qualifying a proposed interpreter to interpret for a given proceeding. This is accomplished through a series of mandated steps, including a finding of good cause, and the completion of a Judicial Council form, as laid out in rule 2.893 of the California Rules of Court. Because interpreters have generally not been provided in civil cases there is no official mechanism for qualifying noncertified or nonregistered court interpreters in such cases.²⁴ Additionally, although a court user may be entitled to an interpreter, there is no designated process for them to waive the provision of an interpreter, should they wish to do so.²⁵

²⁴ Goal 8 addresses recommendations for statutory or rule changes that may be necessary to expand the use of interpreters in civil proceedings.

²⁵ Goal 8 addresses a recommendation for development of a policy regarding guidelines for a waiver of interpreter services by an LEP court user. Recommendation 50 under Goal 6 addresses the necessary training that will be required for judicial officers and court staff to ensure understanding of the waiver requirements, including the appropriateness of waiver and any potential for misuse.

With respect to the qualification process itself, court certified and registered interpreters in California are credentialed by the Judicial Council, with testing, continuing education, and ethical requirements overseen by the Judicial Council’s Court Language Access Support Program (CLASP) unit.²⁶ The speakers at the listening sessions and public hearings agreed that California is a leader in its credentialing of court interpreters. As Goal 5 states, the plan recommends that the existing standards for credentialing remain and, where appropriate, be further developed. Further discussion is provided below under the issue description in Goal 5.

Recommendations:

8. Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings²⁷ as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation.
(Phases 1 and 2)
9. Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended).
(See Recommendation 50, on training for judicial officers and court staff regarding

²⁶ More information at <http://www.courts.ca.gov/programs-interpreters.htm>.

²⁷ As provided in [Evidence Code section 756\(g\)](#), the provision of interpreters in civil proceedings must not affect the provision of interpreter services in criminal, juvenile or other proceedings for which interpreters were previously mandated.

the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

b. Provision of Court Interpreters in Court-Ordered, Court-Operated Programs, Services, or Events

Issue Description

Legal services providers, community members, court administrators, and justice partner representatives expressed concern that LEP litigants frequently find themselves in a court-ordered, court-operated program, service or event outside of a courtroom that is critical for compliance with court rulings or procedures. In these settings, court users are even less likely to obtain interpreter services, given the limited resources faced by many courts. For example, just as the court hearing on custody should be accessible to LEP litigants, Family Court Services mediation—a mandatory process for parents who are not in agreement about child custody or visitation issues— should similarly be fully available to LEP parents. During the public hearing process, legal services advocates and others criticized the common use of unqualified and sometimes entirely inappropriate interpreters—such as family, friends, or even opposing parties—for these events.

While recognizing that courts cannot be made responsible for providing language access services for programs that are not operated or managed by the court, it is common for judicial officers to order parties to participate in or complete outside programs or activities, and condition compliance with a court order on such participation or completion. These programs

offer a benefit to participants (such as parenting classes, batterer intervention programs, or counseling) or may be critical to resolution of a case (such as mediation, or supervised visitation programs that allow for safe child visitation). When making court orders, courts should not create a situation for an LEP court user that conditions his or her compliance on participation in a program for which no language access exists. If resources are so limited that interpreters or other appropriate modes of language access services are not available, courts should develop mechanisms for an LEP court user to comply with the court's order by participating in a comparable, yet linguistically accessible, program or activity, or by waiving participation for the LEP court user. This last alternative is least preferable as, presumably, these court programs and activities are critical for the proper resolution of a case. LEP persons should not be burdened with a less desirable alternative to resolve their court matters (for example, paying a fine rather than attending traffic school) because there are no linguistically accessible options available nor should an LEP individual be denied the benefit of the services otherwise deemed necessary. Recommendation 33 below addresses the need for courts to make reasonable efforts to identify or enter into contracts with providers that can provide language access services.

Recommendations:

10. Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2 and 3)

11. An LEP individual should not be ordered to participate in a court ordered program if that program does not provide appropriate language accessible services. If a judicial officer does not order participation in services due to the program's lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user's ability to meet the requirements of the court. (Phase 2)

c. Use of Technology for Providing Access in Courtroom Proceedings

Issue Description

In order to achieve the goal of universal provision of interpreters in judicial proceedings, the appropriate use of technology must be considered. From the use of various forms of remote interpreting (telephonic or video) to developing multilingual audiovisual material, technology will, by necessity, be part of any comprehensive solution to the problem of lack of language access in judicial proceedings. The use of remote interpreters in courtroom proceedings can be particularly effective in expanding language access.

The quality of interpretation is of paramount importance and should never be compromised. Generally, an in person interpreter is preferred over a remote interpreter but there are situations in which remote interpreting is appropriate, and can be used with greater efficiency.

Remote interpreting, however, may only be used where it will allow LEP court users to fully and meaningfully participate in the proceedings.

Among the benefits of remote interpreting is the facilitation of prompt availability of language access for litigants by providing certified and registered interpreter services with less waiting time and fewer postponements; this saves both the court user's and the court's valuable time. In addition, having qualified interpreters more readily available through remote interpreting can decrease the use of less qualified interpreters, can decrease dismissals for failure to meet court deadlines and can decrease the frequency of attorneys or parties waiving interpreter services or proceeding as if the LEP person is not present, in order to avoid delays. By decreasing interpreter travel time between venues and increasing the number of events being interpreted by individual interpreters, remote interpreting allows more LEP litigants to be served, in more areas, utilizing the same personnel and financial resources, thereby greatly expanding language access.

In 2010 and 2011, California conducted a six month pilot of video remote interpreting (VRI) in American Sign Language in four courts. The purpose of the pilot was to test ASL VRI guidelines that had been prepared by the Court Interpreters Advisory Panel. Four remote interpreters provided services, and all stakeholders were included in the evaluation process. The evaluation showed improved access to court certified ASL interpreters, and high participant satisfaction. As a result of the pilot, the ASL VRI guidelines were successfully refined and completed.

Subsequent to the completion of the pilot, use of VRI in ASL events has expanded to more than

a dozen courts around the state. Although this pilot did not address some distinctly different issues that arise in remote interpretation of spoken language, it did establish that VRI can be used to provide meaningful language access in a variety of courtroom environments if done with appropriate controls and with equipment that meets minimum technology requirements.

Comments from the courts also noted that remote access is not just for interpreting; it is a means to provide a whole variety of services in places far away from our courthouses. For example, where satellite courts have been closed, or where jails are far away from courthouses, remote technology has allowed courts to continue to provide a level of service to those locations. Brief proceedings, such as arraignments, can also be done remotely, saving travel time and costs. It is important that courts, and the branch as a whole, integrate language access planning with information technology planning, to accommodate and anticipate all the differing capabilities expected of remote access technology for total bandwidth, infrastructure, equipment, and training.²⁸

As explained by many in the listening sessions, there are also disadvantages to remote interpreting. Remote interpreting may be perceived as providing second-tier language access services and could, potentially, compromise the accuracy and precision of the interpretation. One study showed that interpreter accuracy and level of fatigue was affected when interpreters

²⁸ The successful implementation of the recommendations contained in California's Language Access Plan will require careful coordination with the related efforts of the Judicial Council Technology Committee, especially on the issues of ensuring the necessary infrastructure, equipment, training, and technical support for the use of remote interpreting.

provided services remotely, particularly where the event exceeded 15 to 20 minutes in length.²⁹

Additionally, remote interpreting can dilute the control an interpreter is able to exercise in ensuring accurate interpretation and removes the important visual context of the setting including, potentially, the nonverbal cues of both the LEP speaker and others in the courtroom. All of these are factors for consideration when remote interpreting is being used to facilitate language access in the courtroom.

Any introduction of remote interpreting in the courtroom will have to include, in advance, appropriate training and education for all court personnel who will be involved in the court proceedings. Judicial officers, interpreter coordinators, and other court staff will need to be familiar with the factors that make an event appropriate for remote technologies, as well as with the technologies themselves, and with the potential drawbacks of using remote technology, so problems can be anticipated or resolved quickly, or the remote interpretation terminated. Judicial officers in particular will have to understand the remote interpretation process to ensure they are managing the courtroom and the proceedings appropriately. Suggested language for the judicial officer when considering objections related to remote interpreting is provided in Appendix C. Similarly, interpreters will have to be trained on the use of the technologies utilized by the court, as well as on the particular challenges that remote interpretation could present, such as the earlier onset of interpreter fatigue, an inability to adequately see or hear the participants, and the criticality of immediately reporting any

²⁹ Braun, Sabine, "Recommendations for the use of video-mediated interpreting in criminal proceedings," in *Videoconference and Remote Interpreting in Criminal Proceedings*, eds. Braun, Sabine, and Taylor, Judith L. (Guildford: University of Surrey, 2011) at p. 279, available at http://epubs.surrey.ac.uk/303017/2/14_Braun_recommendations.pdf, as part of the AVIDICUS Project aimed at assessing the viability of video-mediated interpreting in the criminal justice system.

impediment to performance or other ethical issues. Court staff must be trained and available to repair any technical problems with the equipment.

Language access can also be expanded by the use of multilingual audiovisual material; it is a simple use of technology that is relatable to all court users. For example, in some courtrooms where a particular type of case is heard (e.g., traffic, small claims, and AB 1058 governmental child support calendars), general introductory remarks that educate the litigants on some basic legal principles and procedures are often provided. For those courtrooms or calendars for which it makes sense, courts might develop a short multilingual video to communicate those introductory remarks to LEP persons. Some of these videos might also be made available on the court's website to orient litigants to what will be expected of them in court before their court appearance. (These videos will also help to address a common request, expressed by legal services providers working with LEP populations, that the Language Access Plan include development of tools for serving low literacy populations and speakers of indigenous languages or non-written languages.) Alternatively, when videos are not available, a live interpreter who is offsite might be used via video equipment to provide interpretation of the judge's general introductory remarks before a calendar is called.

Recommendations:

12. The use of in-person, certified and registered court interpreters is preferred for court proceedings, but courts may consider the use of remote interpreting where it is appropriate for a particular event. Remote interpreting may only be used if it

will allow LEP court-users to fully and meaningfully participate in the proceedings.

(Phase 1)

13. When using remote interpreting in the courtroom, the court must satisfy, to the extent feasible, the prerequisites, considerations and guidelines for remote interpreting set forth in Appendix B. (Phase 1)
14. The Implementation Task Force will establish minimum technology requirements for remote interpreting which will be updated on an ongoing basis and which will include minimum requirements for both simultaneous and consecutive interpreting.³⁰ (Phase 1)
15. Courts using remote interpreting should strive to provide video, used in conjunction with enhanced audio equipment, for courtroom interpretations, rather than relying on telephonic interpreting. (Phase 1)
16. The Judicial Council should conduct a pilot project, in alignment with the Judicial Branch’s Tactical Plan for Technology 2014–2016. This pilot should, to the extent possible, collect relevant data on: due process issues, participant satisfaction, whether remote interpreting increases the use of certified and registered interpreters as opposed to provisionally qualified interpreters, the effectiveness of a variety of available technologies (for both consecutive and simultaneous interpretation), and a cost-benefit analysis. The Judicial Council should make clear that this pilot project would not preclude or prevent any court from proceeding on

³⁰ See, e.g., Council of Language Access Coordinators, “Remote Interpreting Guide for Courts and Court Staff,” (unpublished draft, June 2014)

its own to deploy remote interpreting, so long as it allows LEP court users to fully and meaningfully participate in the proceedings. (Phase 1)

17. In order to maximize the use and availability of California’s highly skilled certified and registered interpreters, the Judicial Council should consider creating a pilot program through which certified and registered interpreters would be available to all courts on a short-notice basis to provide remote interpreting services. (Phase 2)
18. The Judicial Council should continue to create multilingual standardized videos for high-volume case types that lend themselves to generalized, not localized, legal information, and provide them to courts in the state’s top eight languages and captioned in other languages. (Phase 1)

d. Other Considerations When Appointing Interpreters

Issue Description

Scheduling

Interpreter representatives in particular expressed concerns about the lack of understanding regarding the very challenging conditions that busy trial courtrooms present for interpreters. Interpreting is a highly specialized skill that requires a great degree of training and preparation. It is mentally taxing, and studies confirm that interpreting mistakes increase after 20 to 30 minutes, and an interpreter’s ability to self-monitor and self-correct correspondingly diminishes in this time. Court administrators and judicial officers should be mindful of this reality in scheduling interpreters for longer matters, in allowing for rest breaks, and in the overall management of the courtroom.

Calendar coordination is an important tool for appointing interpreters in an efficient manner. However, legal services providers and others have raised concerns that calendaring matters specifically for certain LEP populations in order to ensure the availability of interpreters can have the unintended consequence of allowing law enforcement agencies, such as Immigration and Customs Enforcement, to target LEP court users. Therefore, any efforts to maximize the use and availability of interpreters by identifying court proceedings where interpreters will be required must be done in a way that does not create unique risks for LEP court users, or have a chilling effect on their access to court services.

Additionally, Judicial Council staff assist the courts by providing calendar coordination of employee interpreters from other courts through a manual cross-assignment system. This system could be improved with automation and could be expanded to coordinate additional language access resources.

Misrepresentation of Credentials

Certified and registered interpreters also alerted the Joint Working Group to concerns about the misrepresentation by some interpreters of their credentials. For example, some interpreters used by the court claim to be certified or registered but provide false numbers or fail to provide their certified or registered interpreter number (as issued by the Judicial Council upon credentialing). Additionally, court staff and bench officers do not always verify that an interpreter has his or her interpreter oath on file with the court. These concerns are addressed,

effective January 2015, under amended Government Code § 68561, in particular subsections (g) and (f), which require a finding on the record of the validity of an interpreter’s credentials before a proceeding. This plan therefore incorporates the new, statutorily-required procedures and proposes training for judicial officers and court staff on those requirements (see Recommendations 19 and 50).

Role of Bilingual Staff

On the issue of appointing interpreters to court proceedings, stakeholders raised concerns about the use of court bilingual staff as interpreters. Bilingual staff play a critical role in providing language access in the courts and their appropriate use and qualifications are addressed in other areas of this plan. For purposes of Goal 2 (Provision of Qualified Language Access Services in All Judicial Proceedings), judicial officers and court staff should understand that certified and registered interpreters possess highly specialized skills in language and interpreting techniques that are required in courtroom proceedings, skills which bilingual staff do not usually possess. Additionally, placing bilingual staff in the position to act as interpreters may create ethical dilemmas for them as their roles vis-à-vis the litigant and the court process become different, and information they may have gathered as staff may now impede their ability to interpret impartially and objectively. Therefore, it is critical that if bilingual staff are ever to be appointed to interpret in court proceedings, all of the required steps for finding good cause and for provisional qualification be followed.

Friends and Family as “Interpreters”

As has been discussed earlier, the use of friends or family as interpreters can create serious issues concerning meaningful and accurate interpretation of proceedings. It should be noted here that, in addition to the absence of quality control, there are other factors that preclude the use of friends and family as interpreters in court proceedings: they are not neutral individuals, and so, they usually have an inherent conflict or bias; they may have a personal interest in misinterpreting what is being said; and, if minors, they may suffer emotionally from being put in “the middle” of conflict between or on behalf of their parents. It was the consensus of the stakeholders addressing this issue that minor children should never be used to interpret in court proceedings.

Recommendations:

19. Effective January 2015, pursuant to Government Code section 68561(g) and (f), judicial officers, in conjunction with court administrative personnel, must ensure that the interpreters being appointed are qualified, properly represent their credentials on the record,³¹ and have filed with the court their interpreter oaths. (See Recommendation 50, which discusses training of judicial officers and court staff on these subjects.)³² (Phase 1)
20. The Judicial Council should expand the existing formal regional coordination system to improve efficiencies in interpreter scheduling for court proceedings and

³¹ See California Supreme Court Committee on Judicial Ethics Opinion (CJEO) Formal Opinion # 2013-002 (December 2013) at http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO_Formal_Opinion_2013-002_0.pdf for a determination of what constitutes the record when no court reporter or electronic recording is available.

³² While courts may use a bilingual person to communicate minor scheduling issues when no qualified interpreter is available, the record should reflect that no interpreter was present.

cross-assignments between courts throughout the state. (See Recommendation 30, addressing coordination for bilingual staff and interpreters for non-courtroom events.) (Phase 2)

21. Courts should continue to develop methods for using interpreters more efficiently and effectively, including but not limited to calendar coordination. Courts should develop these systems in a way that does not have a chilling effect on LEP court users' access to court services. (Phase 2)
22. Absent exigent circumstances, when appointing a noncertified, nonregistered interpreter, courts must not appoint persons with a conflict of interest or bias with respect to the matter. (Phase 1)
23. Minors will not be appointed to interpret in courtroom proceedings nor court-ordered and court-operated activities. (Phase 1)
24. Absent exigent circumstances, courts should avoid appointing bilingual court staff to interpret in courtroom proceedings; if the court does appoint staff, he or she must meet all of the provisional qualification requirements. (Phase 2)

Goal 3: Provide Language Access Services at All Points of Contact Outside Judicial Proceedings

Goal Statement

By 2020, courts will provide language access services at all points of contact in the California courts. Courts will provide notice to the public of available language services.

Issue Description

As described elsewhere in this plan, LEP court users' language needs are not limited to the courtroom; the public's need for language assistance extends to all points of contact. While courtroom proceedings are critical, and therefore require the highest quality of language access services, other events and points of contact in the courthouse can also have a significant impact on case outcomes, the ability to procedurally and substantively advance a case forward, or the ability to proceed expeditiously. A person's ability to access the court system and seek legal redress or protection begins long before the LEP court user enters the courtroom to attend a hearing. Therefore, this Language Access Plan embraces the principle that it is the courts' responsibility to provide language access throughout the continuum of court services, from the first time an individual tries to access the court's website, or walks in the door of the courthouse, to posthearing events necessary to comply with court orders.

As reported by legal services providers and their clients at public hearings and in public comment, language barriers confront an LEP person from the moment he or she walks into a

courthouse or even before, when trying to get information by phone or from the court’s website. From the most basic inability to communicate what language they speak to the challenges presented by English-only signs and instructions, this lack of services can leave court users aimlessly wandering around the courthouse until frustration leads them to abandon their efforts, no matter how critical their legal need. The inability to understand and fill out mandatory forms and the bewilderment created by legal terminology and court instructions set forth only in English—all while dealing with the stresses of legal problems or even personal safety—have left all too many LEP legal services clients, self-help center users, and community members in a state of legal paralysis.

Experts and others who spoke at the various public hearings agreed that many of these points of contact do not require the skills of a qualified court interpreter. Many of the needs of thousands of LEP court users can be most appropriately addressed with appropriate language services from qualified bilingual staff. It was suggested that courts should explore different strategies for maximizing the use of bilingual staff to make more services available. Other tools can be made available at major points of contact to help improve access; for example, the ready availability of “I speak” cards (like the sample below) at all points of contact can help LEP court users indicate to staff what language they speak.



Translated materials such as referrals, informational brochures, and instructions can help communicate important information, such as how to prepare forms and how to file and serve them. Remote interpreting via telephone or video can also help staff at counters or self-help centers to provide linguistically competent services. Multilingual signage (discussed in detail under Goal 4), can also help LEP court users feel less lost and more able to negotiate the complex environment of the courthouse. Multilingual audiovisual material (for example, kiosks with touchscreen computers that can display visual and audio information in multiple languages) can also expand language access by instructing LEP court users what forms they may need or where they must go within the courthouse.

As was pointed out during the public hearings and listening sessions by court administrators, judicial officers, and other stakeholders, in order to rely on bilingual staff, it will be vital for

courts to take proactive steps to recruit and train bilingual individuals to serve at the more critical junctures, for example, where domestic violence form packets are disseminated (and explained). Where recruitment is challenging, educational providers should be enlisted to help identify potential sources for outreach and hiring by the court; they might also become partners in the training of these staff. In addition, bilingual staff should receive enhanced compensation for using their language skills. When facing budgetary obstacles to enhance language access, community volunteers whose language skills have been vetted can be a valuable resource to increase services. During the public hearings, the Joint Working Group learned that the Department of Education issues a “Seal of Biliteracy” to high school students in certain districts who pass a proficiency exam. Tapping into these and other sources of trained bilingual community members can significantly increase the court’s ability to serve its constituents in a culturally competent manner. At the core, it is vital that there be appropriate screening, monitoring, supervision, and training of staff and volunteers to ensure the quality and competency of the services provided.

Recommendations:

25. The court in each county will designate an office or person that serves as a language access resource for all court users, as well as court staff and judicial officers. This person or persons should be able to: describe all the services the court provides and what services it does not provide, access and disseminate all of the court’s multilingual written information as requested, and help LEP court users and court staff locate court language access resources. (Phase 1)

26. Courts should identify which points of contact are most critical for LEP court users, and, whenever possible, should place qualified bilingual staff at these locations.

(See Recommendation 47, which discusses possible standards for the appropriate qualification level of bilingual staff at these locations.) (Phase 1)
27. All court staff who engage with the public will have access to language assistance tools, such as translated materials and resources, multi-language glossaries and “I speak” cards, to determine a court user’s native language, direct him or her to the designated location for language services, and/or provide the LEP individual with brochures, instructions, or other information in the appropriate language. (Phase 2)
28. Courts should strive to recruit bilingual staff fluent in the languages most common in that county. In order to increase the bilingual applicant pool, courts should conduct outreach to educational providers in the community, such as local high schools, community colleges, and universities, to promote the career opportunities available to bilingual individuals in the courts. (Phase 1)
29. Courts will develop written protocols or procedures to ensure LEP court users obtain adequate language access services where bilingual staff are not available. For example, the court’s interpreter coordinator could be on call to identify which interpreters or staff are available and appropriate to provide services in the clerk’s office or self-help center. Additionally, the use of remote technologies such as telephone access to bilingual staff persons in another location or remote interpreting could be instituted. (Phase 2)

30. The Judicial Council should consider adopting policies that promote sharing of bilingual staff and certified and registered court interpreters among courts, using remote technologies, for language assistance outside of court proceedings. (Phase 2)
31. The courts and the Judicial Council should consider a pilot to implement the use of remote interpreter services for counter help and at self-help centers, incorporating different solutions, including court-paid cloud-based fee-for-service models or a court/centralized bank of bilingual professionals. (Phase 2)
32. The courts should consider a pilot to implement inter-court, remote attendance at workshops, trainings, or “information nights” conducted in non-English languages using a variety of equipment, including telephone, video-conferencing (WebEx, Skype), or other technologies. (Phase 2)
33. In matters with LEP court users, courts must determine that court-appointed professionals, such as psychologists, mediators, and guardians, can provide linguistically accessible services before ordering or referring LEP court users to those professionals. Where no such language capability exists, courts should make reasonable efforts to identify or enter into contracts with providers able to offer such language capabilities, either as bilingual professionals who can provide the service directly in another language or via qualified interpreters. (Phase 2)
34. Courts should consider the use of bilingual volunteers to provide language access services at points of contact other than court proceedings, where appropriate.

Bilingual volunteers and interns must be properly trained and supervised. (Phase 1)

35. As an alternative for traditional information dissemination, the Judicial Council should consider creating pilot programs to implement the use of language access kiosks in lobbies or other public waiting areas to provide a variety of information electronically, such as on a computer or tablet platform. This information should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 3)

Goal 4: Provide High Quality Multilingual Translation and Signage

Goal Statement

The Judicial Council, assisted by the courts, will identify best practices and resources for the highest quality of document translation and court signage in all appropriate languages.

Issue Description

Accurate and effective translation services are essential to ensure that documents and court signage commonly accessible to the public are available to limited-English speakers in their native languages. It is important to recognize, however, that not all languages have a written component, and some LEP persons may also have literacy challenges in their native language. Any strategies to provide translated materials should consider the manner of delivery of these materials to account for these factors, such as creating video and/or audio of the information otherwise available in writing. Video- and audio-based information will also benefit English speakers who have low literacy or who prefer to receive information through mechanisms other than written materials.

The California Courts Online Self-Help Center,³³ for example, provides hundreds of pages of information for court users in English and Spanish, but also incorporates videos on issues such as mediation in small claims, unlawful detainer, and civil harassment cases in English, Spanish, and Russian, as well as English/Spanish videos on issues pertaining to the child custody, juvenile

³³ In English at www.courts.ca.gov/selfhelp.htm and in Spanish at www.sucorte.ca.gov.

delinquency, and juvenile dependency processes. The Online Self-Help Center also has audio recordings of the most common domestic violence information sheets in English and Spanish and instructional videos for completion of common court forms, such as divorce petitions and responses, fee waivers, and domestic violence restraining orders.

While the statewide self-help website provides generalized information, stakeholders pointed out that local courts have no consistency in the translated information on their websites. Most courts only provide information on local procedures in English and do not have local forms available in other languages. Some provide links to the statewide website, but others do not. When translations are provided, legal services providers and their clients report inconsistencies in quality, with translation errors rendering some of the information legally incorrect and thus unusable.

With respect to Judicial Council forms, the Judicial Council has translated the most critical domestic violence forms into Spanish, Chinese, Korean, and Vietnamese, and most of the key family law forms and information sheets into Spanish. The Joint Working Group received comments from legal services providers asking why all forms in a “set” (e.g., all family law forms) are not translated, and urged the group to include in the Language Access Plan a recommendation that more forms be translated, particularly for conservatorships and guardianships, which are highly technical.

Court administrators and legal services providers alike recognized the significant costs associated with translations, but agreed that efficiencies can be built into the system, such as through better statewide coordination of translations so that general information may be translated at the state level for use by all courts. Court forms, juror information, and general educational material (in written or audio/video form) can be centrally translated and provided to courts for any necessary local adaptation. This approach can also incorporate quality control mechanisms to ensure that the translations are performed by competent and qualified translators with experience with court and legal translation and certification from the American Translators Association (ATA). Where appropriate, translator qualification may also be established by the translator's experience or education, such as a degree or certificate from an accredited university in the United States or the equivalent from another country in translation or linguistic studies.

In the meantime, existing tools can be used immediately to improve language access. While providing written translations of individual court orders may not always be feasible, it is fundamental to our judicial system that all court users understand the court orders that are issued. To this end, and where Judicial Council forms exist, courtrooms should have translated versions of these order forms (for information only) to provide to LEP parties, who can then look at their English court order side by side with the translated form in order to understand and comply with the order.

Easy-to-understand signage is also essential to help LEP court users navigate the courthouse and ensure they receive appropriate services. At the San Francisco public hearing, one expert testified that access starts with wayfinding, which requires the use of clear and intuitive visual cues to minimize confusion and assist all persons who enter a building. It is accomplished through the strategic and immediate visual location of common important public spaces: information desks, elevators, stairs, and restrooms. Wayfinding is then supplemented by appropriate signage. Static signage materials (printed materials or signs) can be augmented by dynamic or electronic signage, which allows courts to more easily update information provided to court users in multiple languages, similar to digital signs in airports. A suggestion was made at the public hearings for courts to create virtual courthouse tours on the web, which will enable court users to navigate a virtual courthouse prior to their actual visit. A similar tool could be created for smartphones, tablet computers, and other mobile devices. These important navigational tools can help to remove confusion and language access barriers, and reduce the apprehension that many court users may have about going to an unfamiliar courthouse.

Recommendations:

36. The Judicial Council will create a translation committee to develop and formalize a translation protocol for Judicial Council translations of forms, written materials, and audiovisual tools. The committee should collaborate with interpreter organizations and courts to develop a legal glossary in all certified languages, taking into account regional differences, to maintain consistency in the translation of legal terms. The committee's responsibilities will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of

the translation of materials. The qualification of translators should include a requirement to have a court or legal specialization and be accredited by the American Translators Association (ATA), or to have been determined qualified to provide the translations based on experience, education, and references. Once the Judicial Council's translation protocol is established, individual courts should establish similar quality control and translation procedures for local forms, informational materials, recordings, and videos aimed at providing information to the public. Local court website information should use similarly qualified translators. Courts are encouraged to partner with local community organizations to accomplish this recommendation. (Phase 1)

37. The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use. (Phase 1)
38. The Judicial Council's staff will post on the California Courts website written translations of forms and informational and educational materials for the public as they become available and will send notice to the courts of their availability so that courts can link to these postings from their own websites. (Phase 1)
39. The staff of the Judicial Council should assist courts by providing plain-language translations of the most common and relevant signs likely to be used in a courthouse, and provide guidance on the use of internationally recognized icons, symbols, and displays to limit the need for text and, therefore, translation. Where more localized signage is required, courts should have all public signs in English

and translated in up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 2)

40. Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)

41. The Judicial Council, partnering with courts, should ensure that new courthouse construction efforts, as well as redesign of existing courthouse space, are undertaken with consideration for making courthouses more easily navigable by all LEP persons. (Phase 2)

42. The Judicial Council's staff will provide information to courts interested in better wayfinding strategies, multilingual (static and dynamic) signage, and other design strategies that focus on assisting LEP court users. (Phase 2)

Goal 5: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers

Goal Statement

The courts and the Judicial Council will ensure that all providers of language access services deliver high quality services. Courts and the Judicial Council will establish proficiency standards for bilingual staff and volunteers appropriate to the service being delivered, offer ongoing training for all language services providers, and proactively recruit persons interested in becoming interpreters or bilingual court staff.

Issue Description

Proficiency Standards

Court-certified and registered interpreters in California are credentialed by the Judicial Council, with testing, continuing education, and ethical requirements overseen by the council's staff in the Court Language Access Support Program (CLASP) unit. The speakers during the listening sessions and public hearings agreed that California has been and continues to be a leader in credentialing of its court interpreters, and this plan recommends that such high standards continue and be built upon. Some interpreters raised concerns that the current examination process that adopts the testing standards set by the Consortium for Language Access in the Courts' Certification Test may have lowered the qualifications required of new interpreters. After consideration and research, the Joint Working Group, advised by the Judicial Council's Court Interpreters Advisory Panel, decided that, at this time, the testing and certification

procedures remain appropriate and ensure that only the most qualified interpreters are able to pass and become certified or registered.

As interpreters are deployed in more and more civil cases, all stakeholders agreed that systematic training in the legal terminology used and procedural steps followed in civil case types would be beneficial for those interpreters who have not had experience in the civil arena. Similarly, as remote interpreting is gradually phased in for the expansion of language access, training will be necessary for interpreters and court personnel alike with regard to the technology and the optimum manner of using such equipment.

As stated in Goal 2, the court should provide qualified interpreters for all court proceedings. However, the majority of interactions LEP court users have with the court system will be outside the courtroom and will be handled by bilingual staff or volunteers. Therefore, courts must ensure that the individuals assigned to communicate with the LEP public be qualified and trained.

As legal services providers, their clients, and many others commented during the public hearings and listening sessions—and as detailed in the discussion of Goal 3—LEP court users must be able to obtain accurate and complete information throughout their dealings with the court system. Stakeholders all agree that different points of contact with the public, by their nature, involve different levels of interaction between staff and an LEP court user. For example, a bilingual court clerk working the cashier window will need to be able to carry out basic

monetary transactions in another language with an LEP court user and perhaps provide some standardized information on policies and procedures for paying fines. A bilingual staff person at a self-help center, on the other hand, will have to be able to communicate completely, almost with native-like fluency with an LEP court user needing assistance in understanding court procedures and in preparing forms. The self-help staff person must be able to understand nuanced conversations and questions, provide technical information using the correct legal terminology (in all relevant languages), and be precise in their use of language. A bilingual staff person at the filing counter in the clerk's office may not need to be proficient in writing in another language, but a bilingual family law facilitator may have to write instructions in another language or translate documents.

Many courts have internal procedures for determining the bilingual abilities of court staff, from new hires to existing staff. There is currently no uniform procedure for courts to test language proficiencies, but courts wishing to examine their existing policies or establish a standard for hires may take advantage of the Oral Proficiency Exam (OPE),³⁴ currently used by the staff of the Judicial Council's Court Language Access Support Program (CLASP) unit to credential most registered interpreters. The OPE is a speaking-ability test that uses the guidelines established by the American Council on the Teaching of Foreign Languages (ACTFL) to provide scores that correlate with a given level of language proficiency.³⁵ Courts can look at the ACTFL guidelines to adapt them to the court setting and determine what OPE scores are appropriate for the

³⁴ Information on the Oral Proficiency Exam (OPE) is available at <https://www.prometric.com/en-us/clients/California/Pages/CA-COURT-ORAL-PROFICIENCY-EXAM.aspx>.

³⁵ The American Council on the Teaching of Foreign Languages describes five major levels of proficiency: Distinguished, Superior, Advanced, Intermediate, and Novice. Available at www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking.

different possible points of contact between LEP court users and bilingual staff.³⁶ The Joint Working Group reviewed the different levels and determined that ACTFL’s “intermediate mid” should be the minimum proficiency required for persons designated as bilingual staff, while allowing courts to exercise their discretion as to the circumstances or points of contact when a higher or lower level of proficiency may be required.

Various legal services providers and LEP court users have observed that court staff and written materials sometimes use different translated words or phrases to refer to the same legal or technical term. Bilingual staff and volunteers must be trained in legal terminology so that terms are used consistently by all persons having contact with the public. The Judicial Council and the courts should therefore collaborate on an agreed-upon glossary of legal terms. This glossary should take into account differences in usage due to the country of origin and linguistic background of the LEP communities served by a given court’s community.

While court interpreters and bilingual staff are the primary language access providers in day-to-day interactions with the court, translators who translate written material from one language to another are also key providers. Translators may translate court forms, exhibits, court signs, websites, scripts for video or other audiovisual tools, etc. The language skills required for qualified translation are unique, different from those required for interpretation and much

³⁶ An additional resource courts may want to consider when assessing the proficiency of bilingual staff is the Interagency Language Roundtable’s skill description for interpreter performance. The ILR is a nonfunded federal interagency organization established for the coordination and sharing of information about language-related activities at the federal level. The skill descriptions, located at www.govtilr.org/Skills/interpretationSLDsapproved.htm provide a rating system for assessing the language abilities of interpreters in government settings, and may be of guidance for courts in assessing bilingual staff who do not need the higher specialization of interpreters but may need similar language skills.

more advanced than those required of bilingual staff. Though many court interpreters are also qualified translators, not all are. Certified and registered court interpreters are not tested on their written skills in the non-English language, and only the American Translators Association (ATA) provides certification in translation, though not specific to the law or the court system. Therefore, it is critical that courts use competent, qualified translators for providing language access through any medium that requires written content.

Recruitment

While training and qualification of existing resources is critical, many participants in the public hearings and listening sessions pointed out the shortages throughout the state in qualified language access providers. To begin to address this gap between the supply and demand for language services providers, the Judicial Council and local courts should pursue strategies to enhance the recruitment of individuals who wish to seek a career as language access providers for the court, whether as certified and registered interpreters or as bilingual staff. Some interpreters voiced the belief that California has enough court interpreters to provide court hearing interpretation in most civil matters and court-mandated services (at least in Spanish, the most common language in our state other than English). However, all agree it is nevertheless vital to continue recruitment efforts so there will continue to be an adequate number of interpreters in future years.

The total number of certified and registered interpreters has increased to over 1,800 after a significant drop in the year 2000 when there were only 1,108 total interpreters. However, the

total number of Spanish-certified court interpreters today (1,342) is still lower than it was in 1995, when there were 1,536 Spanish-certified court interpreters.³⁷ The passage rate for certification examinations is low,³⁸ and many individuals give up on the process of becoming certified or registered due to the cost of repeated exams. Court partnerships with educational institutions, including community colleges and state universities, are essential to promote the better preparation of prospective interpreters since they are uniquely placed to train students to pass the certification and registration exams. Similarly, partners such as public defenders, district attorneys, and legal services providers can offer internship opportunities to prospective interpreters to expose them to, and prepare them for, a career in legal interpreting.

Education providers can also play a critical role in assisting courts in identifying bilingual Californians who may want to pursue a career in public service by working in the court system, and in helping to build the language skills of these prospective public servants. In fact, many community colleges and universities throughout the state are concentrating efforts to train bilingual students to serve as language services providers in the government and medical sectors. Courts and the legal system as a whole would greatly benefit from tapping into these resources. Even at the high school level, and earlier, schools can partner with their local courts to provide information and education to children about the benefits of building on language skills to improve opportunities for growth and employment after high school. Courts should include schools, colleges, and universities in court-community events where students have an

³⁷ See *2000 Language Need and Interpreter Use Study*, Table 3.6, at p. 3.13, available upon request.

³⁸ Between July 2010 and June 2012, the exam pass rate for bilingual interpreting exams was approximately 10.8%.

opportunity to observe court professionals, from interpreters to bilingual court staff to judicial officers, as a complement to both civics education and career exploration.

Community-based organizations too can be powerful collaborators with courts in the recruitment of bilingual persons to work for the courts. They have insights into the barriers to education and employment for members of their communities, awareness of existing job training and skill-development programs, and the ability to help courts identify untapped resources for recruitment and training of prospective bilingual court employees. Internships and volunteer opportunities in the courts, under the supervision, guidance, and support of educational providers and community-based organizations, can be an avenue for recruitment of future court language service providers.

Recommendations:

43. Courts, the Judicial Council, and the Court Interpreters Advisory Panel (CIAP) will ensure that all interpreters providing language access services to limited English proficient court users are qualified and competent. Existing standards for qualifications should remain in effect and will be reviewed regularly by the CIAP.

(Phase 1)

44. The online statewide orientation program will continue to be available to facilitate orientation training for new interpreters working in the courts.³⁹ (Phase

1)

³⁹ This orientation is currently required for new interpreters prior to enrollment but is available to anyone, including interpreters for whom registered status is not applicable (e.g., deaf interpreters and indigenous language interpreters).

45. The Judicial Council and the courts should work with interpreter organizations and educational providers (including the California community college and state university systems) to examine ways to better prepare prospective interpreters to pass the credentialing examination. These efforts should include:

- Partnering to develop possible exam preparation courses and tests, and
- Creating internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas.

(Phase 1)

46. The Judicial Council, interpreter organizations, and educational groups should collaborate to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. (Phase 1)

47. Courts must ensure that bilingual staff providing information to LEP court users are proficient in the languages in which they communicate. All staff designated as bilingual staff by courts must at a minimum meet standards corresponding to "Intermediate mid" as defined under the American Council on the Teaching of Foreign Languages guidelines. (See Appendix F.) The existing Oral Proficiency Exam available through the Judicial Council's Court Language Access Support Program (CLASP) unit may be used by courts to establish foreign-language proficiency of staff. Courts should not rely on self-evaluation by bilingual staff in determining their language proficiency. (Phase 1)

48. Beyond the specified minimum, the Judicial Council staff will work with the courts to (a) identify standards of language proficiency for specific points of public contact within the courthouse, and (b) develop and implement an online training for bilingual staff. (Phase 1)
49. The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies, including consideration of market conditions, to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. (Phase 2)

Goal 6: Provide Judicial Branch Training on Language Access Policies and Procedures

Goal Statement

Judicial officers, court administrators, and court staff will receive training on language access policies, procedures, and standards, so they can respond consistently and effectively to the needs of LEP court users, while providing culturally competent language access services.

Issue Description

Throughout the planning process—from input during listening sessions to oral and written comments during the public hearings—stakeholders reiterated their concerns about the need for appropriate training of court staff and judicial officers. Judges and court administrators expressed concern with respect to their own lack of training in how to determine whether a noncertified or nonregistered interpreter is capable of providing competent language access services. Legal services providers reported a lack of knowledge on the part of court staff regarding more specialized language needs, such as an awareness of the diversity of languages spoken within a given county, the varieties of indigenous languages, and tools for identifying the preferred language for an LEP court user. There were also inconsistencies in the method for provisionally qualifying noncertified or nonregistered interpreters, and in the awareness of when, if ever, it is appropriate to ask attorneys or advocates to interpret for their clients. Finally, advocates expressed concern over the courts' referrals of LEP parties to court-appointed professionals who may or may not be linguistically accessible or culturally

competent. (Recommendation 33 above provides mechanisms to ensure courts contract with providers who provide services accessible to and by LEP persons.)

Interpreters expressed concerns about a general misunderstanding among court staff, judicial officers, and even other participants in the court process (including attorneys) of the interpreter's role and ethical constraints. Similarly, interpreters described a lack of awareness of the highly specialized skills required for court interpreting, the mental and physical toll of interpreting for periods longer than 30 minutes, the challenges fast-paced, crowded courtrooms pose for the interpreter, and ways to improve communication and courtroom management to optimize the task of an interpreter.

Language access stakeholders also expressed concern that court staff may not be aware of language access policies for their courts, an issue amplified by the lack of consistency among and even within courts. The absence or perceived absence of clear guidelines at the local and state level can cause confusion for court administrators and staff, thus highlighting the critical need for ongoing trainings on existing policies and on the statewide policies to be established after adoption of this Language Access Plan. Training on policies must also include information and tools for court staff and judicial officers that can be used to identify an individual's need for language services and properly documenting the language services need, even when unable to provide the services.

Any training for court staff and judicial officers should address, as well, the challenges faced by court interpreters when performing their jobs. Courtroom personnel and bench officers must understand the importance of effective courtroom management, the need to control the speed of the proceeding, the interpreter's ethical obligations to assess and report impediments to his or her performance, and the mental toll that interpreting takes on even the most qualified and seasoned interpreter.

Recommendations:

50. Judicial officers, including temporary judges, court administrators, and court staff will receive training regarding the judicial branch's language access policies and requirements as delineated in this Language Access Plan, as well as the policies and procedures of their individual courts. Courts should schedule additional training when policies are updated or changed. These trainings should include:

- Optimal methods for managing court proceedings involving interpreters, including an understanding of the mental exertion and concentration required for interpreting, the challenges of interpreter fatigue, the need to control rapid rates of speech and dialogue, and consideration of team interpreting where appropriate;
- The interpreter's ethical duty to clarify issues during interpretation and to report impediments to performance;
- Required procedures for the appointment and use of a provisionally qualified interpreter and for an LEP court user's waiver, if requested, of interpreter services;

- Legal requirements for establishing, on the record⁴⁰, an interpreter’s credentials;
- Available technologies and minimum technical and operational standards for providing remote interpreting; and
- Working with LEP court users in a culturally competent manner.

The staff of the Judicial Council will develop curricula for trainings, as well as resource manuals that address all training components, and distribute them to all courts for adaptation to local needs. (Phase 1)

51. Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts’ intranets. (Phases 2 and 3)

52. Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench officers in addressing language issues that arise in the courtroom, including policies related to remote interpreting. (Phase 1)

⁴⁰ See footnote 31 above.

Goal 7: Conduct Outreach to Communities Regarding Language Access Services

Goal Statement

The Judicial Council and the courts will undertake comprehensive outreach to, and engage in partnership with, LEP communities and the organizations that serve them.

Issue Description

The role of courts is to serve their communities by providing a process for resolving disputes. Educating the community about court services is one of the ways by which the courts instill trust and confidence in the legal system. As legal services providers and LEP participants commented during the three public hearings, many LEP individuals do not come to the courthouse for legal help because they mistrust courts, misunderstand the role of the court system, and lack knowledge of their legal rights and what the court can do for them. They also believe, often for good reason, that they will not be able to communicate effectively in their language.

Engaging the community through outreach is critical to establishing the legitimacy of the court system and creating respect for the institution—and by extension—for the orders and decisions it makes. This must include outreach to LEP communities to explain that the court is there to serve them and is linguistically accessible to them. Additionally, ongoing outreach efforts, at both the state and local levels, provide the best means for securing community input on

language access needs. Establishing mechanisms to receive community feedback regarding the effectiveness, or lack thereof, of the court's language access services is a key component to ensuring community trust and quality control of the court's services. (Goal 8 addresses complaint mechanisms and related systems to manage and oversee language access policies at the state and local levels.)

These outreach efforts must be multifaceted. Courts can leverage existing community resources to notify their constituents of language access services as well as court services as a whole. To do this, courts can ensure information and notices are disseminated to community-based organizations, legal services providers, bar associations, and others and can use ethnic media and local news sources in outreach efforts. Outreach may also include the use of multi-lingual audiovisual tools to provide general information about language access services, court procedures, and available resources, such as self-help centers. Video and audio technologies are efficient and effective ways to reach potential LEP court users at large.

The oral and written comments submitted to the working group emphasized the need for collaboration and partnerships. Closely working with community-based organizations and providers, such as social services, legal services providers, faith-based organizations, job training programs, adult school programs, and elementary, middle, and high schools, is the most effective way for courts to reach LEP populations that have traditionally avoided the courts. These collaborative efforts can also help courts identify community needs and community resources and can help courts improve the quality of their language access services

and their responsiveness to their communities. They can also help courts target more isolated LEP communities that are not normally reached through more traditional outreach mechanisms. Justice partners and community-based organizations can help distribute information, educate the public, and even provide community space and language access for court-community events and informational and educational clinics about court services such as self-help centers or alternative dispute resolution programs.

As was discussed in Goal 5, outreach can also be effective in any effort to develop a pipeline of language access providers. Courts, in their outreach to community-based organizations and educational institutions, can engage bilingual community members by (a) offering potential employment opportunities and a meaningful chance to help their communities, (b) providing opportunities for participation in the court as trained volunteers to learn about the justice system and to gain experience and job skills, and (c) encouraging these community members to invest the time and resources required to study and prepare to become a certified or registered court interpreter. (Goal 5 provides a specific recommendation for these collaborations to increase the pool of qualified language access providers throughout the court system.)

Recommendations:

53. Courts should strengthen existing relationships and create new relationships with local community-based organizations, including social services providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. (Phase 3)

54. To maximize both access and efficiency, multilingual audio and/or video recordings should be used as part of the outreach efforts by courts to provide important general information and answers to frequently asked questions. (Phase 3)
55. Courts should collaborate with local media and leverage the resources of media outlets, including ethnic media that communicate with their consumers in their language, as a means of disseminating information throughout the community about language access services, the court process, and available court resources. (Phase 3)

Goal 8: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management

Goal Statement

In order to complete the systematic expansion of language access services, the Judicial Council will (1) secure adequate funding that does not result in a reduction of other court services; (2) propose appropriate changes to the law, both statutory amendments and changes to the rules of court; and (3) develop systems for implementing the Language Access Plan, for monitoring the provision of language access services, and for maintaining the highest quality of language services.

a. Increased Funding

Issue Description

As was discussed at the outset of this plan, the California judicial branch has seen significant funding cutbacks in past years forcing courts to close courtrooms and courthouses, cut hours of operations, lay off staff, and decrease or eliminate services altogether. Although this year a small amount of funding was restored, it was partially offset by the imposition of other financial obligations on the branch and a reduction in court revenues. Accordingly, courts throughout the state still struggle to meet their court users' most basic needs. For example, the presiding judge of Riverside County reported that residents of Needles—many of whom are low income, LEP individuals—must now travel 200 miles to reach the nearest courthouse. It is therefore imperative that there be increased funding for the judicial branch, and that any funding

provided by the Legislature for increasing language access not be at the expense of other branch funding. Basic, ongoing funding from the Legislature is essential and critical for effective implementation of the Language Access Plan.

However, there are other opportunities for funding for individual courts, in particular for projects designed to address the needs of low-income or LEP communities, especially in the areas of domestic violence and elder or dependent adult abuse. Some grant possibilities in recent years have included funding for innovative initiatives to use technology to expand access to the judicial system, partnership grants with legal services providers funded by the Equal Access Fund, pilot projects addressing particular needs of a court's communities, and State Bar grants for one-time discrete projects. Grant funding may have limitations since it often provides resources for one-time projects or needs, and may not be available for ongoing operational costs necessary to keep a project running beyond the original grant period. However, grant funding can also be an important resource for certain projects in the expansion of language access and the Judicial Council should support efforts at the local level to apply for relevant funding opportunities.

Recommendations:

56. The judicial branch will advocate for sufficient funding to provide comprehensive language access services. The funding requests should reflect the incremental phasing-in of the Language Access Plan, and should seek to ensure that requests do not jeopardize funding for other court services or operations. (Phase 1)

57. Funding requests for comprehensive language access services should be premised on the best available data that identifies the resources necessary to implement the recommendations of this Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent;⁴¹ information being gathered for the 2015 Language Need and Interpreter Use Report; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users). (Phase 1)
58. Judicial Council staff will pursue appropriate funding opportunities from federal, state, or nonprofit entities, such as the National Center for State Courts, which are particularly suitable for one-time projects, for example, translation of documents or production of videos. (Phase 1)
59. Courts should pursue appropriate funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, one-time or ongoing grants from public interest foundations, state or local bar associations, and federal, state, or local governments. (Phase 1)

⁴¹ The Legislature provides funding for interpreter services to the courts in a special item of the judicial branch budget (Program 45.45 of the Trial Court Trust Fund). At its public meeting on January 23, 2014, the Judicial Council approved recommendations that authorize reimbursement from Program 45.45 to include costs for all appearances in domestic violence cases, family law cases in which there is a domestic violence issue, and elder abuse cases, as well as interpreters for indigent parties in civil cases. At its public meeting on December 12, 2014, the council modified the action, approving expenditure of these funds consistent with the priorities and preferences set forth in AB 1657.

b. Language Access Plan Management

Issue Description

Stakeholders participating throughout the planning process agreed that, in order to ensure the success of a statewide language access plan, it is necessary to create systems for implementing the plan, for compliance and monitoring its effects on language access statewide, and for tracking the need for ongoing adjustments and improvements. Participants in the court system, from legal services providers to interpreters to court users themselves, emphasized the need for quality control measures, including mechanisms for making and resolving complaints about all aspects of the courts' language access services.

The Judicial Council's Court Language Access Support Program (CLASP) unit and the statewide Language Access Coordinator will be instrumental in providing centralized management of the Language Access Plan and in being available as a resource to local courts needing technical assistance or support to implement the provisions of this Language Access Plan as well as develop local procedures and policies. CLASP, in conjunction with other Judicial Council staff working on language access issues, can coordinate the sharing of existing language access materials developed by providers and courts throughout the state and nationally, and can coordinate efforts for developing further statewide materials (which local courts can then adapt to their unique needs). Because LEP court users may have language access needs for appellate matters (for example, needing assistance at the counter or understanding forms or procedures), this plan also recommends that the California Courts of Appeal and Supreme Court of California discuss and adopt applicable parts of the plan with necessary modifications.

A multifaceted complaint procedure is also essential to ensure the quality of the language access services delivered. Development of such a procedure must include, among other considerations, conferring with union representatives and impacted service providers to ensure the creation of a complaint system that will be respected by all who either provide or receive services. All participants in the court system, including LEP court users, attorneys, legal services providers, community-based organizations, interpreters, judicial officers, and other justice partners, must be able to register complaints if a court fails to provide adequate language access services, or if the services provided are of poor quality, whether the service involves bilingual staff, written translation, or interpreter employees or contractors. Any complaint procedure must be available to all, consistent and transparent, with procedures and forms, and should be utilized in a way that protects LEP court users or other interested persons from actual or perceived negative repercussions either to them personally or to the outcome of their case.

Complainants should be able to file their complaints confidentially, and advocates and attorneys should be allowed to register complaints or concerns on behalf of their LEP clients. Similarly, court staff, administrators, judges, subordinate judicial officers, and interpreters must be able to file a complaint regarding serious problems or concerns with the quality of interpretation provided by a given interpreter (whether this interpreter is a court employee, independent contractor, certified, registered, or provisionally qualified).

The confidentiality of complaint processes should be broadly communicated to all court users. In addition, information about the complaint process and any forms should be available in English and up to 5 other languages, based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Where not available in a certain language, the court should ensure the availability of bilingual staff or an interpreter to assist the LEP court user in completing the complaint form and to explain the written procedures.

Recommendations:

60. The Judicial Council will create a Language Access Implementation Task Force (name TBD) to develop an implementation plan for presentation to the council. The Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users. As part of its charge, the task force will identify the costs associated with implementing the LAP recommendations. The Implementation Task Force will coordinate with related advisory groups and Judicial Council staff on implementation, and will have the flexibility to monitor and adjust implementation plans based on feasibility and available resources. (Phase 1)
61. The Implementation Task Force will establish the necessary systems for monitoring compliance with this Language Access Plan. This will include oversight of the plan's

effects on language access statewide and at the individual court level, and assessing the need for ongoing adjustments and improvements to the plan. (Phase 1)

62. The Implementation Task Force will develop a single form, available statewide, on which to register a complaint about the provision of, or the failure to provide, language access. This form should be as simple, streamlined, and user-friendly as possible. The form will be available in both hard copy at the courthouse and online, and will be capable of being completed electronically or downloaded for printing and completion in writing. The complaints will also serve as a mechanism to monitor concerns related to language access at the local or statewide level. The form should be used as part of multiple processes identified in the following recommendations of this plan. (Phase 1)

63. Individual courts will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may file a complaint about the court's provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. Local courts may choose to model their local procedures after those developed as part of the implementation process. Complaints must be filed with the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan. (Phase 1)

64. The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter's skills and adherence to ethical

requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rule of Court 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners). (Phase 2)

65. The translation committee (as described in Recommendation 36 above), in consultation with the Implementation Task Force, will develop a process to address complaints about the quality of Judicial Council–approved translations, including translation of Judicial Council forms, the California Courts Online Self-Help Center, and other Judicial Council–issued publications and information. (Phase 3)

66. The Judicial Council should create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and other materials identified in this plan in order to assist courts in efforts to expand language access. (Phase 1)

67. The California Courts of Appeal and the Supreme Court of California should discuss and adopt applicable parts of this Language Access Plan with necessary modifications. (Phase 1)

c. Necessary Court Rules, Forms, and Legislation for Plan Implementation

Issue Description

Legislative action to amend, delete, or add statutory language, and Judicial Council action to create or revise court forms or rules of court, will be necessary to fully and effectively implement the recommendations contained in this Language Access Plan. Such actions should include clarification of existing statutes, the amendment of the existing rule of court for provisional qualification of interpreters in civil cases, and the development of a policy for an LEP court user's ability to request a waiver of interpreter services.

During the public hearings and listening sessions, court administrators described the difficulties that certain aspects of the Trial Court Interpreter Employment and Labor Relations Act pose for courts in their efforts to efficiently schedule interpreters. Of particular concern was Government Code section 71802, which limits individual courts from using a particular independent contractor more than 100 days per calendar year, and also requires that courts offer independent contractors who have been appointed more than 45 court days in the same year the opportunity to apply for employment. Court administrators expressed concern that adding additional civil case types that require an interpreter will cause courts to reach the 100-day limit for individual independent court interpreter contractors more quickly, making them unavailable to meet the court's future needs within that year, while also forcing independent contractors to accept opportunities in counties outside their geographic area of choice. Administrators also raised concerns about the inefficiencies of requiring that interpreter coordinators be certified or registered interpreters to be funded from interpreter funding,

which then limits the time that the credentialed coordinator can provide interpreting services. Where interpreter resources are tight, the policy of using a credentialed interpreter for administrative tasks, thus removing him or her from the courtroom, should be revisited.

In addition to the recommendations listed below, the Joint Working Group recognizes that additional rules, statute, or form changes may be necessary to implement the recommendations contained in this plan.

Recommendations:

68. To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)
69. The Judicial Council should establish procedures and guidelines for determining “good cause” to appoint non-credentialed court interpreters in civil matters. (Phase 1)
70. The Judicial Council should amend rule of court 2.893 to address the appointment of non-credentialed interpreters in civil proceedings. (Phase 1)
71. The Judicial Council should sponsor legislation to amend Government Code section 68560.5(a) to include small claims proceedings in the definition of court proceedings for which qualified interpreters must be provided. (Phase 2)
72. The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in

- small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available. (Phase 2)
73. The Judicial Council should update the interpreter-related court forms (INT-100-INFO, INT-110, INT-120, and INT-200) as necessary to be consistent with this plan. (Phase 2)
74. The Implementation Task Force should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. The evaluation should include, but not be limited to, whether any modifications should be proposed for existing requirements and limitations on hiring independent contractors beyond a specified number of days. (Phase 2)
75. The Implementation Task Force will develop a policy addressing an LEP court user's request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record,⁴² or in writing if there is no official record of the proceedings; and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and

⁴² See footnote 31 above.

appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1)

Appendix A: Phase-In of Recommendations

PHASE 1: These recommendations are urgent or should already be in place. Implementation of these recommendations should begin in year 1 (2015).

#1 Language access needs identification. Courts will identify the language access needs for each LEP court user, including parties, witnesses, or other persons with a significant interest, at the earliest possible point of contact with the LEP person. The language needs will be clearly and consistently documented in the case management system and/or any other case record or file, as appropriate given a court's existing case information record system, and this capability should be included in any future system upgrades or system development. (Phase 1)

#2 Requests for language services. A court's provision or denial of language services must be tracked in the court's case information system, however appropriate given a court's capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)

#3 Protocol for justice partners to communicate language needs. Courts should establish protocols by which justice partners can indicate to the court that an individual requires a spoken language interpreter at the earliest possible point of contact with the court system. (Phase 1)

#4 Mechanisms for LEP court users to self-identify. Courts will establish mechanisms that invite LEP persons to self-identify as needing language access services upon contact with any part of the court system (using, for example, "I speak" cards [see page 56 for a sample card]). In the absence of self-identification, judicial officers and court staff must proactively seek to ascertain a court user's language needs. (Phase 1)

#5 Information for court users about availability of language access services. Courts will inform court users about the availability of language access services at the earliest points of contact between court users and the court. The notice must include, where accurate and appropriate, that language access services are free. Courts should take into account that the need for language access services may occur earlier or later in the court process, so information about language services must be available throughout the duration of a case. Notices should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. Notice must be provided to the public, justice partners, legal services agencies, community-based organizations, and other entities working with LEP populations. (Phase 1)

#6 Expansion of language services cost reporting. The Judicial Council and the courts will continue to expand and improve data collection on interpreter services, and expand language services cost reporting to include amounts spent on other language access services and tools

such as translations, interpreter or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases. (Phase 1)

#8 Expansion of court interpreters to all civil proceedings. Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation. (Phases 1 and 2)

#9 Provisional qualification requirements. Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended). (See Recommendation 50, on training for judicial officers and court staff regarding the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings. Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

#12 Preference for in-person interpreters. The use of in-person, certified and registered court interpreters is preferred for court proceedings, but courts may consider the use of remote interpreting where it is appropriate for a particular event. Remote interpreting may only be used if it will allow LEP court-users to fully and meaningfully participate in the proceedings. (Phase 1)

#13 Remote interpreting in the courtroom. When using remote interpreting in the courtroom, the court must satisfy, to the extent feasible, the prerequisites, considerations and guidelines for remote interpreting set forth in Appendix B. (Phase 1)

#14 Remote interpreting minimum technology requirements. The Implementation Task Force will establish minimum technology requirements for remote interpreting which will be updated on an ongoing basis and which will include minimum requirements for both simultaneous and consecutive interpreting. (Phase 1)

#15 Use of video for remote interpreting. Courts using remote interpreting should strive to provide video, used in conjunction with enhanced audio equipment, for courtroom interpretations, rather than relying on telephonic interpreting. (Phase 1)

#16 Pilot for video remote interpreting. The Judicial Council should conduct a pilot project, in alignment with the Judicial Branch’s Tactical Plan for Technology 2014–2016. This pilot should, to the extent possible, collect relevant data on: due process issues, participant satisfaction, whether remote interpreting increases the use of certified and registered interpreters as opposed to provisionally qualified interpreters, the effectiveness of a variety of available technologies (for both consecutive and simultaneous interpretation), and a cost-benefit analysis. The Judicial Council should make clear that this pilot project would not preclude or prevent any court from proceeding on its own to deploy remote interpreting, so long as it allows LEP court users to fully and meaningfully participate in the proceedings. (Phase 1)

#18 Creation of multilingual standardized videos. The Judicial Council should continue to create multilingual standardized videos for high-volume case types that lend themselves to generalized, not localized, legal information, and provide them to courts in the state’s top eight languages and captioned in other languages. (Phase 1)

#19 Verifying credentials of interpreters. Effective January 2015, pursuant to Government Code section 68561 (g) and (f), judicial officers, in conjunction with court administrative personnel, must ensure that the interpreters being appointed are qualified, properly represent their credentials on the record, and have filed with the court their interpreter oaths. (See Recommendation 50, which discusses training of judicial officers and court staff on these subjects.) (Phase 1)

#22 Avoiding conflicts of interest. Absent exigent circumstances, when appointing a noncertified, nonregistered interpreter, courts must not appoint persons with a conflict of interest conflict of interest or bias with respect to the matter. (Phase 1)

#23 Appointment of minors to interpret. Minors will not be appointed to interpret in courtroom proceedings nor court-ordered and court-operated activities. (Phase 1)

#25 Designation of language access office or representative. The court in each county will designate an office or person that serves as a language access resource for all court users, as well as court staff and judicial officers. This person or persons should be able to: describe all the services the court provides and what services it does not provide, access and disseminate all of the court’s multilingual written information as requested, and help LEP court users and court staff locate court language access resources. (Phase 1)

#26 Identification of critical points of contact. Courts should identify which points of contact are most critical for LEP court users, and, whenever possible, should place qualified bilingual staff at these locations. (See Recommendation 47, which discusses possible standards for the appropriate qualification level of bilingual staff at these locations.) (Phase 1)

#28 Recruitment of bilingual staff. Courts should strive to recruit bilingual staff fluent in the languages most common in that county. In order to increase the bilingual applicant pool, courts should conduct outreach to educational providers in the community, such as local high schools,

community colleges, and universities, to promote the career opportunities available to bilingual individuals in the courts. (Phase 1)

#34 Use of bilingual volunteers. Courts should consider the use of bilingual volunteers to provide language access services at points of contact other than court proceedings, where appropriate. Bilingual volunteers and interns must be properly trained and supervised. (Phase 1)

#36 Establishment of translation committee. The Judicial Council will create a translation committee to develop and formalize a translation protocol for Judicial Council translations of forms, written materials, and audiovisual tools. The committee should collaborate with interpreter organizations and courts to develop a legal glossary in all certified languages, taking into account regional differences, to maintain consistency in the translation of legal terms. The committee's responsibilities will also include identifying qualifications for translators, and the prioritization, coordination, and oversight of the translation of materials. The qualification of translators should include a requirement to have a court or legal specialization and be accredited by the American Translators Association (ATA), or to have been determined qualified to provide the translations based on experience, education, and references. Once the Judicial Council's translation protocol is established, individual courts should establish similar quality control and translation procedures for local forms, informational materials, recordings, and videos aimed at providing information to the public. Local court website information should use similarly qualified translators. Courts are encouraged to partner with local community organizations to accomplish this recommendation. (Phase 1)

#37 Statewide and multilingual samples and templates. The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use. (Phase 1)

#38 Posting of translations on web. The Judicial Council's staff will post on the California Courts website written translations of forms and informational and educational materials for the public as they become available and will send notice to the courts of their availability so that courts can link to these postings from their own websites. (Phase 1)

#40 Translation of court orders. Courts will provide sight translation of court orders and should consider providing written translations of those orders to LEP persons when needed. At a minimum, courts should provide the translated version of the relevant Judicial Council form to help litigants compare their specific court order to the translated template form. (Phase 1)

#43 Standards for qualifications of interpreters. Courts, the Judicial Council, and the Court Interpreters Advisory Panel (CIAP) will ensure that all interpreters providing language access services to limited English proficient court users are qualified and competent. Existing standards for qualifications should remain in effect and will be reviewed regularly by the CIAP. (Phase 1)

#44 Online orientation for new interpreters. The online statewide orientation program will continue to be available to facilitate orientation training for new interpreters working in the courts. (Phase 1)

#45 Training for prospective interpreters. The Judicial Council and the courts should work with interpreter organizations and educational providers (including the California community college and state university systems) to examine ways to better prepare prospective interpreters to pass the credentialing examination. These efforts should include:

- Partnering to develop possible exam preparation courses and tests, and
- Creating internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas.

(Phase 1)

#46 Training for interpreters on civil cases and remote interpreting. The Judicial Council, interpreter organizations, and educational groups should collaborate to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. (Phase 1)

#47 Language proficiency standards for bilingual staff. Courts must ensure that bilingual staff providing information to LEP court users are proficient in the languages in which they communicate. All staff designated as bilingual staff by courts must at a minimum meet standards corresponding to "Intermediate mid" as defined under the American Council on the Teaching of Foreign Languages guidelines. (See Appendix F.) The existing Oral Proficiency Exam available through the Judicial Council's Court Language Access Support Program (CLASP) unit may be used by courts to establish foreign-language proficiency of staff. Courts should not rely on self-evaluation by bilingual staff in determining their language proficiency. (Phase 1)

#48 Standards and online training for bilingual staff. Beyond the specified minimum, the Judicial Council staff will work with the courts to (a) identify standards of language proficiency for specific points of public contact within the courthouse, and (b) develop and implement an online training for bilingual staff. (Phase 1)

#50 Judicial branch training regarding Language Access Plan. Judicial officers, including temporary judges, court administrators, and court staff will receive training regarding the judicial branch's language access policies and requirements as delineated in this Language Access Plan, as well as the policies and procedures of their individual courts. Courts should schedule additional training when policies are updated or changed. These trainings should include:

- Optimal methods for managing court proceedings involving interpreters, including an understanding of the mental exertion and concentration required for interpreting, the challenges of interpreter fatigue, the need to control rapid rates of speech and dialogue, and consideration of team interpreting where appropriate;

- The interpreter’s ethical duty to clarify issues during interpretation and to report impediments to performance;
- Required procedures for the appointment and use of a provisionally qualified interpreter and for an LEP court user’s waiver, if requested, of interpreter services;
- Legal requirements for establishing, on the record, an interpreter’s credentials;
- Available technologies and minimum technical and operational standards for providing remote interpreting; and
- Working with LEP court users in a culturally competent manner.

The staff of the Judicial Council will develop curricula for trainings, as well as resource manuals that address all training components, and distribute them to all courts for adaptation to local needs. (Phase 1)

#52. Benchcards on language access. Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench officers in addressing language issues that arise in the courtroom, including policies related to remote interpreting. (Phase 1)

#56 Advocacy for sufficient funding. The judicial branch will advocate for sufficient funding to provide comprehensive language access services. The funding requests should reflect the incremental phasing-in of the Language Access Plan, and should seek to ensure that requests do not jeopardize funding for other court services or operations. (Phase 1)

#57 Use of data for funding requests. Funding requests for comprehensive language access services should be premised on the best available data that identifies the resources necessary to implement the recommendations of this Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent; information being gathered for the 2015 Language Need and Interpreter Use Report; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users). (Phase 1)

#58 Pursuit by the Judicial Council of other funding opportunities. Judicial Council staff will pursue appropriate funding opportunities from federal, state, or nonprofit entities such as the National Center for State Courts, which are particularly suitable for one-time projects, for example, translation of documents or production of videos. (Phase 1)

#59 Pursuit by courts of other funding opportunities. Courts should pursue appropriate funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, one-time or ongoing grants from public interest foundations, state or local bar associations, federal, state, or local governments, and others. (Phase 1)

#60 Language Access Implementation Task Force. The Judicial Council will create a Language Access Implementation Task Force (name TBD) to develop an implementation plan for

presentation to the council. The Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users. As part of its charge, the task force will identify the costs associated with implementing the LAP recommendations. The Implementation Task Force will coordinate with related advisory groups and Judicial Council staff on implementation, and will have the flexibility to monitor and adjust implementation plans based on feasibility and available resources. (Phase 1)

#61 Compliance and monitoring system. The Implementation Task Force will monitor compliance monitoring with this Language Access Plan. This will include oversight of the plan's effects on language access statewide and at the individual court level, and assessing the need for ongoing adjustments and improvements to the plan. (Phase 1)

#62 Single complaint form. The Implementation Task Force will develop a single form, available statewide, on which to register a complaint about the provision of, or the failure to provide, language access. This form should be as simple, streamlined, and user-friendly as possible. The form will be available in both hard copy at the courthouse and online, and will be capable of being completed electronically or downloaded for printing and completion in writing. The complaints will also serve as a mechanism to monitor concerns related to language access at the local or statewide level. The form should be used as part of multiple processes identified in the following recommendations of this plan. (Phase 1)

#63 Complaints at local level regarding language access services. Individual courts will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may file a complaint about the court's provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. Local courts may choose to model their local procedures after those developed as part of the implementation process. Complaints must be filed with the court at issue and reported to the Judicial Council to assist in the ongoing monitoring of the overall implementation and success of the Language Access Plan. (Phase 1)

#66 Statewide repository of language access resources. The Judicial Council should create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and other materials identified in this plan in order to assist courts in efforts to expand language access. (Phase 1)

#67 Adoption of plan by the California Courts of Appeal and California Supreme Court. The California Courts of Appeal and the Supreme Court of California should discuss and adopt applicable parts of this Language Access Plan with necessary modifications. (Phase 1)

#69 Procedures and guidelines for good cause. The Judicial Council should establish procedures and guidelines for determining "good cause" to appoint non-credentialed court interpreters in civil matters. (Phase 1)

#70 Amend rule of court for appointment of interpreters in civil proceedings. The Judicial Council should amend rule of court 2.893 to address the appointment of non-credentialed interpreters in civil proceedings. (Phase 1)

#75 Policy regarding waiver of interpreter. The Implementation Task Force will develop a policy addressing an LEP court user's request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record,⁴³ or in writing if there is no official record of the proceedings; and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1)

PHASE 2: These recommendations are critical, but less urgent or may require completion of Phase 1 tasks. Implementation of these recommendations may begin immediately, where practicable, and in any event should begin by years 2–3 (2016–2017).

#2 Requests for language services. A court's provision or denial of language services must be tracked in the court's case information system, however appropriate given a court's capabilities. Where current tracking of provision or denial is not possible, courts must make reasonable efforts to modify or update their systems to capture relevant data as soon as feasible. (Phases 1, 2)

#7 Review of other data beyond the U.S. Census. The Judicial Council and the courts should collect data in order to anticipate the numbers and languages of likely LEP court users. Whenever data is collected, including for these purposes, the courts and the Judicial Council should look at other sources of data beyond the U.S. Census, such as school systems, health departments, county social services, and local community-based agencies. (Phase 2)

#8 Expansion of court interpreters to all civil proceedings. Qualified interpreters must be provided in the California courts to LEP court users in all court proceedings, including civil proceedings as prioritized in Evidence Code section 756 (see Appendix H), and including Family Court Services mediation. (Phases 1 and 2)

#9 Provisional qualification requirements. Pending amendment of California Rules of Court, rule 2.893, when good cause exists, a noncertified or nonregistered court interpreter may be

⁴³ See footnote 31 above.

appointed in a court proceeding in any matter, civil or criminal, only after he or she is determined to be qualified by following the procedures for provisional qualification. These procedures are currently set forth, for criminal and juvenile delinquency matters, in rule 2.893 (and, for civil matters, will be set forth once the existing rule of court is amended). (See Recommendation 50, on training for judicial officers and court staff regarding the provisional qualification procedures, and Recommendation 70, on amending rule 2.893 to include civil cases.) (Phases 1 and 2)

#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings.

Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

#11 Consideration of language accessibility of service providers in making court orders. An LEP individual should not be ordered to participate in a court ordered program if that program does not provide appropriate language accessible services. If a judicial officer does not order participation in services due to the program's lack of language capacity, the court should order the litigant to participate in an appropriate alternative program that provides language access services for the LEP court user. In making its findings and orders, the court should inquire if the program provides language access services to ensure the LEP court user's ability to meet the requirements of the court. (Phase 2)

#17 Pilot for central pool of remote interpreters. In order to maximize the use and availability of California's highly skilled certified and registered interpreters, the Judicial Council should consider creating a pilot program through which certified and registered interpreters would be available to all courts on a short-notice basis to provide remote interpreting services. (Phase 2)

#20 Expansion of regional coordination system. The Judicial Council should expand the existing formal regional coordination system to improve efficiencies in interpreter scheduling for court proceedings and cross-assignments between courts throughout the state. (See Recommendation 30, addressing coordination for bilingual staff and interpreters for non-courtroom events.) (Phase 2)

#21 Methods for calendaring and coordination of court interpreters. Courts should continue to develop methods for using interpreters more efficiently and effectively, including but not limited to calendar coordination. Courts should develop these systems in a way that does not have a chilling effect on their access to court services. (Phase 2)

#24 Appointment of bilingual staff. Absent exigent circumstances, courts should avoid appointing bilingual court staff to interpret in courtroom proceedings; if the court does appoint staff, he or she must meet all of the provisional qualification requirements. (Phase 2)

#27 Provision of language access tools to court personnel. All court staff who engage with the public will have access to language assistance tools, such as translated materials and resources, multi-language glossaries and “I speak” cards, to determine a court user’s native language, direct him or her to the designated location for language services, and/or provide the LEP individual with brochures, instructions, or other information in the appropriate language. (Phase 2)

#29 Development of protocols for where bilingual staff are not available. Courts will develop written protocols or procedures to ensure LEP court users obtain adequate language access services where bilingual staff are not available. For example, the court’s interpreter coordinator could be on call to identify which interpreters or staff are available and appropriate to provide services in the clerk’s office or self-help center. Additionally, the use of remote technologies such as telephone access to bilingual staff persons in another location or remote interpreting could be instituted. (Phase 2)

#30 Policies that promote sharing of bilingual staff and interpreters among courts. The Judicial Council should consider adopting policies that promote sharing of bilingual staff and certified and registered court interpreters among courts, using remote technologies, for language assistance outside of court proceedings. (Phase 2)

#31 Pilot for remote assistance at counters and in self-help centers. The courts and the Judicial Council should consider a pilot to implement the use of remote interpreter services for counter help and at self-help centers, incorporating different solutions, including court-paid cloud-based fee-for-service models or a court/centralized bank of bilingual professionals. (Phase 2)

#32 Pilot for remote assistance for workshops. The courts should consider a pilot to implement inter-court, remote attendance at workshops, trainings, or “information nights” conducted in non-English languages using a variety of equipment, including telephone, video-conferencing (WebEx, Skype), or other technologies. (Phase 2)

#33 Qualifications of court-appointed professionals. In matters with LEP court users, courts must determine that court-appointed professionals, such as psychologists, mediators, and guardians, can provide linguistically accessible services before ordering or referring LEP court users to those professionals. Where no such language capability exists, courts should make reasonable efforts to identify or enter into contracts with providers able to offer such language capabilities, either as bilingual professionals who can provide the service directly in another language or via qualified interpreters. (Phase 2)

#39 Signage throughout courthouse. The staff of the Judicial Council should assist courts by providing plain-language translations of the most common and relevant signs likely to be used in a courthouse, and provide guidance on the use of internationally recognized icons, symbols, and displays to limit the need for text and, therefore, translation. Where more localized signage is required, courts should have all public signs in English and translated in up to five other languages based on local community needs assessed through collaboration with and

information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 2)

#41 Accessible courthouses. The Judicial Council, partnering with courts, should ensure that new courthouse construction efforts, as well as redesign of existing courthouse space, are undertaken with consideration for making courthouses more easily navigable by all LEP persons. (Phase 2)

#42 Wayfinding strategies. The Judicial Council's staff will provide information to courts interested in better wayfinding strategies, multilingual (static and dynamic) signage, and other design strategies that focus on assisting LEP court users. (Phase 2)

#49 Recruitment strategies for language access providers. The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies, including consideration of market conditions, to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. (Phase 2)

#51 Language access resources on intranet. Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts' intranets. (Phases 2 and 3)

#64. Complaints regarding court interpreters. The Judicial Council, together with stakeholders, will develop a process by which the quality and accuracy of an interpreter's skills and adherence to ethical requirements can be reviewed. This process will allow for appropriate remedial action, where required, to ensure certified and registered interpreters meet all qualification standards. Development of the process should include determination of whether California Rule of Court 2.891 (regarding periodic review of court interpreter skills and professional conduct) should be amended, repealed, or remain in place. Once the review process is created, information regarding how it can be initiated must be clearly communicated to court staff, judicial officers, attorneys, and in plain language to court users (e.g., LEP persons and justice partners). (Phase 2)

#68. Implementation Task Force to evaluate need for updates to rules and statutes. To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)

#71 Legislation to delete exception for small claims proceedings. The Judicial Council should sponsor legislation to amend Government Code section 68560.5(a) to include small claims proceedings in the definition of court proceedings for which qualified interpreters must be provided. (Phase 2)

#72 Legislation to require credentialed interpreters for small claims. The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available. (Phase 2)

#73 Updating of interpreter-related forms. The Judicial Council should update the interpreter-related court forms (INT-100-INFO, INT-110, INT-120, and INT-200) as necessary to be consistent with this plan. (Phase 2)

#74 Evaluation of Trial Court Interpreter Employment and Labor Relations Act. The Implementation Task Force should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. The evaluation should include, but not be limited to, whether any modifications should be proposed for existing requirements and limitations on hiring independent contractors beyond a specified number of days. (Phase 2)

PHASE 3: These recommendations are critical, but not urgent, or are complex and will require significant foundational steps, time, and resources to be completed by 2020. Implementation of these recommendations should begin immediately, where practicable, or immediately after the necessary foundational steps are in place.

#10 Provision of qualified interpreters in all court-ordered/court-operated proceedings. Beginning immediately, as resources are available, but in any event no later than 2020, courts will provide qualified court interpreters in all court-ordered, court-operated programs, services and events, to all LEP litigants, witnesses, and persons with a significant interest in the case. (Phases 1, 2, and 3)

#35 Pilot programs for language access kiosks. As an alternative for traditional information dissemination, the Judicial Council should consider creating pilot programs to implement the use of language access kiosks in lobbies or other public waiting areas to provide a variety of information electronically, such as on a computer or tablet platform. This information should be in English and up to five other languages based on local community needs assessed through collaboration with and information from justice partners, including legal services providers, community-based organizations, and other entities working with LEP populations. At a minimum, all such materials should be available in English and Spanish. (Phase 3)

#51 Language access resources on intranet. Information on local and statewide language access resources, training and educational components identified throughout this plan, glossaries, signage, and other tools for providing language access should be readily available to all court staff through individual courts' intranets. (Phases 2 and 3)

#53 Partnerships to disseminate information. Courts should strengthen existing relationships and create new relationships with local community-based organizations, including social services providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. (Phase 3)

#54 Multilingual audio or video recordings to inform public. To maximize both access and efficiency, multilingual audio and/or video recordings should be used as part of the outreach efforts by courts to provide important general information and answers to frequently asked questions. (Phase 3)

#55 Collaboration with media. Courts should collaborate with local media and leverage the resources of media outlets, including ethnic media that communicate with their consumers in their language, as a means of disseminating information throughout the community about language access services, the court process, and available court resources. (Phase 3)

#65. Complaints regarding statewide translations. The translation committee (as described in Recommendation 36 above), in consultation with the Implementation Task Force, will develop a process to address complaints about the quality of Judicial Council–approved translations, including translation of Judicial Council forms, the California Courts Online Self-Help Center, and other Judicial Council–issued publications and information. (Phase 3)

#68. Implementation Task Force to evaluate need for updates to rules and statutes. To ensure ongoing and effective implementation of the LAP, the Implementation Task Force will evaluate, on an ongoing basis, the need for new statutes or rules or modifications of existing rules and statutes. (Phases 2 and 3)

Appendix B: Prerequisites, Considerations, and Guidelines for Remote Interpreting in Court Proceedings⁴⁴

Before a court begins using remote interpreting (RI) they must meet certain prerequisites that are outlined below. Additionally, prior to selecting RI for a particular courtroom event the court must consider, at minimum, the following specific factors for determining the appropriateness of RI. When utilizing RI for a courtroom event the court must adhere to the guidelines below.

PREREQUISITES

- A. Minimum Technology Requirements for Remote Interpreting:
Prior to instituting RI in any proceeding the court should ensure that it has the equipment and technology to provide high quality communications. (Until the Implementation Task Force has established technology minimums for RI, as required under Recommendation 14, Appendix D should be consulted on an interim basis.)
- B. Training:
Prior to instituting RI in a proceeding, the court should ensure that all persons who will be involved in the RI event have adequate training in the use of the equipment, in interpreting protocols, and in interactions with LEP persons.

CONSIDERATIONS FOR DETERMINING APPROPRIATENESS OF RI FOR COURT EVENT

Not all courtroom proceedings are appropriate for RI. The initial analysis for determining whether a court proceeding is appropriate for RI will most likely be made by the interpreter coordinator who may choose to consult with the interpreter being considered for the assignment. Courtroom proceedings that are lengthy, complex, or involve more than simple evidence are not typically appropriate for RI. Additionally, the interpreter coordinator or the judicial officer or both should consider all of the following before deciding to use RI:

- The anticipated length and complexity of the event, including complexity of the communications involved;
- The relative convenience or inconvenience to the court user;
- Whether the matter is uncontested;

⁴⁴ This appendix contains suggested guidelines based on current best practices and, as such, should be subject to updating and revision to accommodate advances in technology that will help ensure quality communication with LEP court users.

- Whether the proceeding is of an immediate nature, such as arraignments for in- custody defendants, bail reductions, and temporary restraining orders;
- Whether the LEP party is present in the courtroom;
- The number of court users planned to receive interpretation from the same interpreter during the event;
- The efficient deployment of court resources;
- Whether the LEP party requires a relay interpreter, e.g., where there is an interpreter for an indigenous language who relays the interpretation in Spanish. (The need for a relay interpreter does not preclude the use of RI, but might necessitate the presence of at least one of the interpreters in the courtroom.)

GUIDELINES FOR USING RI IN A COURT PROCEEDING

1. Need to Interrupt or Clarify, and Suspend and Reschedule

When using RI the court should consult with the interpreter to determine how best to facilitate interruptions or clarifications that may be needed. The court should suspend and reschedule a matter if, for technology or other reasons, RI is not facilitating effective communication, or if the interpreter finds the communications to be ineffective.

2. VRI and RI Challenges

The court shall be mindful of the particular challenges involved in remote interpreting, including increased fatigue and stress; events involving remote interpreting should have shorter sessions and more frequent breaks.

3. Participants Who Must Have Access

The remote interpreter's voice must be heard clearly throughout the court room, and the interpreter must be able to hear all participants.

4. Visual/Auditory Issues, Confidentiality, and Modes of Interpreting

Video remote interpreting (VRI) is generally preferred over other methods of remote interpreting that do not provide visual cues, such as telephonic interpreting. However, there will be situations where VRI is not possible or is not necessary. (See Appendix D for visual/auditory issues and requirements for confidentiality that must be considered and accounted for when implementing RI.)

5. Documents and Other Information

The court shall ensure the availability of technology to communicate written information to the interpreter including a copy of exhibits being introduced, as well as information after a

proceeding, such as an order, so the interpreter can provide sight translation to the LEP individual if needed.

6. Professional Standards and Ethics

The same rules for using qualified interpreters apply to assignments using RI. It is the intent of this language access plan to expand the availability of certified and registered interpreters through the use of RI. All interpreters performing RI should be familiar with, and are bound by, the same professional standards and ethics as onsite court interpreters.⁴⁵

7. Data Collection

(a) Courts using RI in the courtroom should monitor the effectiveness of their technology and equipment, and the satisfaction of participants.

(b) For purposes of supporting funding requests, courts should track the benefits and resource savings resulting from RI on an ongoing basis (e.g., increased certified/registered interpreter availability to assist with additional events due to the use of RI, and any cost savings).

⁴⁵ The requirements for provisionally qualifying an interpreter can be found in Government Code section 68651(c) and California Rules of Court, rule 2.893.

**Appendix C: Suggested Language for the Judicial Officer When Considering Objections
Related to Remote Interpreting**

We will have a court certified/registered __(*insert language*)_____ interpreter help us with these proceedings.

The interpreter is at a remote location and will appear in court via video- (or audio-) conference. Please remember to speak slowly and clearly and not speak at the same time as each other.

Do parties and counsel have any objections to the interpreter remotely participating by remote interpreting for today’s proceedings?

[Judge rules on objections, if any, or assists in resolving concerns.]

IF PROCEEDING WITH VRI:

Parties and counsel had no objections to the use of remote interpreting, so the court will proceed with today’s hearing.

[or]

Parties and counsel objected to the use of remote interpreting, but the court has overruled those objections, so the court will proceed with today’s hearing.

IF NOT PROCEEDING WITH VRI:

Parties and counsel objected to the use of remote interpreting. The court will not continue with today’s hearing at this time and will reset this matter for a qualified (*insert language*)_____ language interpreter to be available in person.

Suggested Language to Include in the Minutes:

Interpreter (*name*)_____ is present by video remote conferencing and sworn to interpret (*insert language*)_____ language for (*name*)_____. Sworn oath on file with the Superior Court of California, County of _____.

Appendix D: Visual/Auditory Issues, Confidentiality, and Modes of Interpreting When Working Remotely

1. A clear view of the LEP court user is more important than a view of every speaker; although cameras on all stakeholders may be beneficial, it may not be essential. A speakerphone is not recommended unless it accommodates the other requirements of this appendix, including the ability to be part of a solution to allow for simultaneous interpreting when needed.
2. To ensure the opportunity for confidential attorney-client conferencing, the attorney should have available an individual handset, headset, or in-the-ear communication device to speak with and listen to the interpreter.
3. Interpreting in the courtroom regularly involves both simultaneous and consecutive modes of interpreting. This can be achieved in a variety of ways using existing and emerging technologies. In longer matters, failure to have a technical solution that can accommodate simultaneous interpreting will result in delays of court time and may cause frustration with remote interpreting. Courts should use a technical solution that will allow for simultaneous interpreting. However, there may be proceedings (for example, very short matters) in which consecutive interpreting is adequate to ensure language access.
4. Recognizing that courts may implement very different technical solutions for RI, it is critical that prior to the start of an interpreted event all parties, judicial officers, court staff, and officers of the court (including attorneys and interpreters) know how to allow for confidential conferencing when needed.
5. All participants, including the LEP party and the interpreters, need to check microphone and/or camera clarity before beginning interpretation.
6. Both RI interpreters and courts should have technical support readily available.
7. Clear, concise operating instructions should be posted with the RI equipment.

Note: There are different and other visual considerations, including visual confidentiality, if using VRI with American Sign Language (ASL). Please see www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf for a complete discussion of using VRI with ASL-interpreted events.

Appendix E: Top 17 Languages Accounting for 98.5% of All Service Days for 2004–2008

Rank	Language	Service Days (Avg. per year)
1	Spanish	167,744
2	Vietnamese	6,968
3	Korean	3,687
4	Mandarin	3,143
5	Russian	2,753
6	Eastern Armenian	2,493
7	Cantonese	2,117
8	Punjabi	2,083
9	Farsi	1,760
10	Tagalog	1,645
11	Hmong	1,523
12	Khmer	1,191
13	Laotian	861
14	Arabic	794
15	Japanese	655
16	Mien	570
17	Portuguese	328

Note: This table is adapted from Table 1 of the *2010 Language Need and Interpreter Use Study*. American Sign Language is the second-most used language in the state, with 37,335 total service days, but was covered in Appendix Table 2.5 of the 2010 study.

The *2010 Language Need and Interpreter Use Study* can be found at:
www.courts.ca.gov/documents/language-interpreterneed-10.pdf

Appendix F: Minimum Proficiency Level for Designation of Staff as Bilingual

As used by the Oral Proficiency Exam, and based on the definitions (reproduced below) provided by the [American Council on the Teaching of Foreign Languages](#), courts must establish a proficiency level of “Intermediate Mid” as the minimum standard for designating staff as bilingual for purposes of California’s Language Access Plan. Courts may wish to select a higher standard depending on the position being filled.

INTERMEDIATE MID

Speakers at the Intermediate Mid sublevel are able to handle successfully a variety of uncomplicated communicative tasks in straightforward social situations. Conversation is generally limited to those predictable and concrete exchanges necessary for survival in the target culture. These include personal information related to self, family, home, daily activities, interests and personal preferences, as well as physical and social needs, such as food, shopping, travel, and lodging.

Intermediate Mid speakers tend to function reactively, for example, by responding to direct questions or requests for information. However, they are capable of asking a variety of questions when necessary to obtain simple information to satisfy basic needs, such as directions, prices, and services. When called on to perform functions or handle topics at the Advanced level, they provide some information but have difficulty linking ideas, manipulating time and [aspect](#), and using communicative strategies, such as [circumlocution](#).

Intermediate Mid speakers are able to express personal meaning by creating with the language, in part by combining and recombining known elements and conversational input to produce responses typically consisting of sentences and strings of sentences. Their speech may contain pauses, reformulations, and self-corrections as they search for adequate vocabulary and appropriate language forms to express themselves. In spite of the limitations in their vocabulary and/or pronunciation and/or grammar and/or syntax, Intermediate Mid speakers are generally understood by sympathetic [interlocutors](#) accustomed to dealing with non-natives.

Overall, Intermediate Mid speakers are at ease when performing Intermediate-level tasks and do so with significant quantity and quality of Intermediate-level language.

INTERMEDIATE HIGH

Intermediate High speakers are able to converse with ease and confidence when dealing with the routine tasks and social situations of the Intermediate level. They are able to handle

successfully uncomplicated tasks and social situations requiring an exchange of basic information related to their work, school, recreation, particular interests, and areas of competence.

Intermediate High speakers can handle a substantial number of tasks associated with the Advanced level, but they are unable to sustain performance of all of these tasks all of the time. Intermediate High speakers can narrate and describe in all major time frames using connected discourse of paragraph length, but not all the time. Typically, when Intermediate High speakers attempt to perform Advanced-level tasks, their speech exhibits one or more features of [breakdown](#), such as the failure to carry out fully the narration or [description](#) in the appropriate major time frame, an inability to maintain paragraph-length [discourse](#), or a reduction in breadth and appropriateness of vocabulary.

Intermediate High speakers can generally be understood by native speakers unaccustomed to dealing with non-natives, although interference from another language may be evident (e.g., use of [code-switching](#), false [cognates](#), literal translations), and a pattern of gaps in communication may occur.

ADVANCED LOW

Speakers at the Advanced Low sublevel are able to handle a variety of communicative tasks. They are able to participate in most informal and some formal conversations on topics related to school, home, and leisure activities. They can also speak about some topics related to employment, current events, and matters of public and community interest. Advanced Low speakers demonstrate the ability to narrate and describe in the major time frames of past, present, and future in paragraph-length discourse with some control of aspect. In these narrations and descriptions, Advanced Low speakers combine and link sentences into connected discourse of paragraph length, although these narrations and descriptions tend to be handled separately rather than interwoven. They can handle appropriately the essential linguistic challenges presented by a complication or an unexpected turn of events. Responses produced by Advanced Low speakers are typically not longer than a single paragraph. The speaker's dominant language may be evident in the use of false cognates, literal translations, or the oral paragraph structure of that language. At times their discourse may be minimal for the level, marked by an irregular flow, and containing noticeable self-correction. More generally, the performance of Advanced Low speakers tends to be uneven. Advanced Low speech is typically marked by a certain grammatical roughness (e.g., inconsistent control of verb endings), but the overall performance of the Advanced-level tasks is sustained, albeit minimally. The vocabulary

of Advanced Low speakers often lacks specificity. Nevertheless, Advanced Low speakers are able to use communicative strategies such as rephrasing and circumlocution. Advanced Low speakers contribute to the conversation with sufficient accuracy, clarity, and precision to convey their intended message without misrepresentation or confusion. Their speech can be understood by native speakers unaccustomed to dealing with non-natives, even though this may require some repetition or restatement. When attempting to perform functions or handle topics associated with the Superior level, the linguistic quality and quantity of their speech will deteriorate significantly.

Appendix G: Resource List

Commission on the Future of the California Courts, *Justice in the Balance 2020* (1993), available at www.courts.ca.gov/documents/2020.pdf

National Center for State Courts, *A National Call to Action, Access to Justice for Limited English Proficient Litigants: Creating Solutions to Language Barriers in State Courts* (July 2013), at www.ncsc.org/Services-and-Experts/Areas-of-expertise/Language-access/A-National-Call-To-Action.aspx

Kaiser Permanente, Qualified Bilingual Staff Model & Program at <http://kpqbs.org>, and Healthcare Interpreter Certificate Program at <http://kphci.org/>

Asian Americans Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in Los Angeles County* (2013), at www.advancingjustice-la.org/system/files/CommunityofContrasts_LACounty2013.pdf

Asian Americans Advancing Justice, *A Community of Contrasts: Asian Americans, Native Hawaiians and Pacific Islanders in California* (2013), www.advancingjustice-la.org/system/files/Communities_of_Contrast_California_2013.pdf

California's Indigenous Farmworkers: Final Report of the Indigenous Farmworker Study (IFS) to the California Endowment (Jan. 2010), at www.crla.org/sites/all/files/content/uploads/News/NewsUpdate/IFS-ReportJan10.pdf

Neighborhood Legal Services of Los Angeles County, *Justice Silenced: The Harms Suffered by Litigants Denied Access in Los Angeles Superior Courts* (Mar. 2014)

Registry of Interpreters for the Deaf (RID), Standard Practice Papers, at <http://www.rid.org/interpreting/Standard+Practice+Papers/index.cfm>

The California Court's Online Self-Help Center, in English at www.courts.ca.gov/selfhelp.htm, and in Spanish (Centro de ayuda en línea) at www.sucorte.ca.gov

The JusticeCorps program detailed at www.courts.ca.gov/justicecorps.htm

University of California Hastings College of the Law's study on *Enhancing Language Access Services for LEP Court Users* (2013), at www.courts.ca.gov/documents/jc-20130426-info3.pdf

Written public comments and prepared presentations for the three public hearings held in February and March 2014 regarding language access, at www.courts.ca.gov/24466.htm

Demographic data for California's English Learner population, available at <http://data1.cde.ca.gov/dataquest/>

State Seal of Bilingualism, available at www.cde.ca.gov/sp/el/er/sealofbilingualism.asp

California Court Interpreters Program, also known as the Court Language Access Support Program (CLASP), at www.courts.ca.gov/programs-interpreters.htm

“Interpreter Orientation: Working in the California Courts.” This online course is also available to current interpreters for continuing education credit, at www.courts.ca.gov/21714.htm

The California Court Interpreters Program has commissioned various studies and reports related to its testing program, other testing programs, and other related issues, available at www.courts.ca.gov/2686.htm

Professional Standards and Ethics for Court Interpreters (May 2013), at www.courts.ca.gov/documents/CIP-Ethics-Manual.pdf

Trial Court Interpreters Program Expenditure Report for Fiscal Year 2012–2013, at www.courts.ca.gov/documents/lr_TC-Interpreter-Program-FY-2012-2013.pdf

Recommended Guidelines for Video Remote Interpreting (VRI) for ASL-Interpreted Events (2012), at www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf

Sabine Braun, “Recommendations for the use of video-mediated interpreting in criminal proceedings,” in *Videoconference and Remote Interpreting in Criminal Proceedings*, eds. Sabine Braun and Judith L. Taylor (Guildford: University of Surrey, 2011), 265–287, at http://epubs.surrey.ac.uk/303017/2/14_Braun_recommendations.pdf

Video Remote Interpreting Position Statement, California Federation of Interpreters (September 2013), available at http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI_VRI_Position.pdf

Council of Language Access Coordinators, “Remote Interpreting Guide for Courts and Court Staff” (unpublished draft, June 2014)

Information regarding the Oral Proficiency Exam (OPE) available at <https://www.prometric.com/en-us/clients/California/Pages/CA-COURT-ORAL-PROFICIENCY-EXAM.aspx>

The American Council on the Teaching of Foreign Languages proficiency levels, at www.actfl.org/publications/guidelines-and-manuals/actfl-proficiency-guidelines-2012/english/speaking

Interagency Language Roundtable’s skill descriptions for interpreter performance, at www.govtilr.org/Skills/interpretationSLDsapproved.htm

Consortium for Legal Access in the Courts, Professional Issues Committee, *Guide to Translation of Legal Materials* (National Center for State Courts, Apr. 2011), available at www.ncsc.org/education-and-careers/state-interpreter-certification/~/_media/files/pdf/education%20and%20careers/state%20interpreter%20certification/guide%20to%20translation%20practices%206-14-11.ashx

Institute for Local Government, *Language Access Laws and Legal Issues: A Local Official's Guide* (2011), at www.ca-ilg.org/sites/main/files/file-attachments/resources_Language_Access_Guide_formatted_9-27-11_0.pdf
A Local Official's Guide to Language Access Laws (2013) 10 Hastings Race & Poverty L.J. 31

American Bar Association (ABA) Language Access website:
www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/language_access.html

American Bar Association, Standing Committee on Legal Aid and Indigent Defendants, *Standards for Language Access in Courts* (Feb. 2012). at
www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_scl_aid_standards_for_language_access_proposal.authcheckdam.pdf

U.S. Department of Justice, Language Access Plan (Mar. 2012), at
www.justice.gov/open/language-access-plan.pdf

U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed.Reg. 41455–41472 (June 18, 2002), at www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf

Exec. Order No. 13166, Improving Access to Services for Persons With Limited English Proficiency, 65 Fed.Reg. 50121–50122 (Aug. 11, 2000), and U.S. Department of Justice, Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency; Policy Guidance, 65 Fed.Reg. 50123–50125 (Aug. 11, 2000), both at www.justice.gov/crt/about/cor/Pubs/eolep.pdf

Limited English Proficiency, a federal interagency website, at www.lep.gov/

Memorandum to Federal Agencies from U.S. Attorney General Eric Holder Reaffirming the Mandates of Executive Order 13166 (Feb. 17, 2011), at
www.lep.gov/13166/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf

LEP.gov State Court-specific Resources: <http://www.lep.gov/resources/resources.html#SC>

Reporting and Complaint Processes in Other States

http://rid.org/ethics/file_complaint/

Wisconsin: <https://www.wicourts.gov/services/public/interpretercomplaint.htm>

Tennessee: www.tsc.state.tn.us/sites/default/files/docs/grievance_discipline_process_april_2012.pdf

Ohio: <http://www.supremecourt.ohio.gov/JCS/interpreterSvcs/default.asp>

North Carolina: [www.nccourts.org/ Surveys/LA/languageaccess.htm](http://www.nccourts.org/Surveys/LA/languageaccess.htm)

Georgia: http://w2.georgiacourts.org/coj/files/Rule%20on%20Interpreters%20-%20FINAL_JULY.pdf

Nebraska: <http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/reports/courts/language-access-plan.pdf>
(see Appendix 20)

Arkansas: <https://courts.arkansas.gov/sites/default/files/tree/Arkansas%20LEP%20Plan.pdf> (pp. 15–16)

Alaska: www.law.state.ak.us/pdf/criminal/LanguageAccessPlan.pdf (pp. 19–20)

New York: <http://labor.ny.gov/formsdocs/dipa/la1.pdf>

Training Tools From Other States

Ohio: www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=140618

Minnesota: www.mncourts.gov/?page=4347

Appendix H: Evid. Code, § 756 and Gov. Code, § 68092.1

Section 756 is added to the Evidence Code, to read:

756.

(a) To the extent required by other state or federal laws, the Judicial Council shall reimburse courts for court interpreter services provided in civil actions and proceedings to any party who is present in court and who does not proficiently speak or understand the English language for the purpose of interpreting the proceedings in a language the party understands, and assisting communications between the party, his or her attorney, and the court.

(b) If sufficient funds are not appropriated to provide an interpreter to every party that meets the standard of eligibility, court interpreter services in civil cases reimbursed by the Judicial Council, pursuant to subdivision (a), shall be prioritized by case type by each court in the following order:

(1) Actions and proceedings under Division 10 (commencing with Section 6200) of the Family Code, actions or proceedings under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code) in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code, and actions and proceedings for dissolution or nullity of marriage or legal separation of the parties in which a protective order has been granted or is being sought pursuant to Section 6221 of the Family Code; actions and proceedings under subdivision (w) of Section 527.6 of the Code of Civil Procedure; and actions and proceedings for physical abuse or neglect under the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).

(2) Actions and proceedings relating to unlawful detainer.

(3) Actions and proceedings to terminate parental rights.

(4) Actions and proceedings relating to conservatorship or guardianship, including the appointment or termination of a probate guardian or conservator.

(5) Actions and proceedings by a parent to obtain sole legal or physical custody of a child or rights to visitation.

(6) All other actions and proceedings under Section 527.6 of the Code of Civil Procedure or the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).

(7) All other actions and proceedings related to family law.

(8) All other civil actions or proceedings.

(c) (1) If funds are not available to provide an interpreter to every party that meets the standard of eligibility, preference shall be given for parties proceeding in forma pauperis pursuant to Section 68631 of the Government Code in any civil action or proceeding described in paragraph (3), (4), (5), (6), (7), or (8) of subdivision (b).

(2) Courts may provide an interpreter to a party outside the priority order listed in subdivision (b) when a qualified interpreter is present and available at the court location and no higher priority action that meets the standard of eligibility described in subdivision (a) is taking place at that location during the period of time for which the interpreter has already been compensated.

(d) A party shall not be charged a fee for the provision of a court interpreter.

(e) In seeking reimbursement for court interpreter services, the court shall identify to the Judicial Council the case types for which the interpretation to be reimbursed was provided. Courts shall regularly certify that in providing the interpreter services, they have complied with the priorities and preferences set forth in subdivisions (b) and (c), which shall be subject to review by the Judicial Council.

(f) This section shall not be construed to alter, limit, or negate any right to an interpreter in a civil action or proceeding otherwise provided by state or federal law, or the right to an interpreter in criminal, traffic, or other infraction, juvenile, or mental competency actions or proceedings.

(g) This section shall not result in a reduction in staffing or compromise the quality of interpreting services in criminal, juvenile, or other types of matters in which interpreters are provided.

Section 68092.1 is added to the Government Code, to read:

68092.1.

(a) The Legislature finds and declares that it is imperative that courts provide interpreters to all parties who require one, and that both the legislative and judicial branches of government continue in their joint commitment to carry out this shared goal.

(b) Notwithstanding Section 26806 or 68092, or any other law, a court may provide an interpreter in any civil action or proceeding at no cost to the parties, regardless of the income of the parties. However, until sufficient funds are appropriated to provide an interpreter to every party who needs one, interpreters shall initially be provided in accordance with the priorities set forth in Section 756 of the Evidence Code.

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This is a complex comment chart. All commentators who submitted formal public comments regarding the draft *Strategic Plan for Language Access in the California Courts* are first identified and listed in alphabetical order, and then commentator's specific comments regarding plan provisions are broken up and listed in the order that the provisions appear in the draft *Strategic Plan for Language Access* (e.g., Goal I, Goal II, etc.).

List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
1.	41 Legal Services and Community Organizations, submitted by Joann H. Lee on behalf of several groups	AM	See comments on specific provisions below.	
2.	ACLU of California and Other Community Organizations, submitted by Julia Harumi Mass on behalf of several groups	AM	See comments on specific provisions below.	
3.	Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer	AM	See comments on specific provisions below. The commentator also <u>disagrees</u> with Phase I Recommendation No. 60. ("The pursuit of grant funding does not seem like a realistic strategy for systemic and structural expanded language access. Grant funds are limited-term, and are often tied to specific deliverables/objectives, which may or may not align with the statewide strategies outline in the Plan. Reliance on grant funds can lead organizations down a path of chasing funding, rather than implementing policy consistently. Further, any significant reliance on this funding source will result in disparate service levels from court to court, which in and of itself will raise access and equity concerns.")	The JWG disagrees but recognizes that grant funding is not the exclusive solution to funding and resources needs, nor does it suggest grant funding as the primary strategy for expanding language access. It is the intent of Recommendation No. 59 (former No. 60) that trial courts consider a variety of funding opportunities, including grants, to support discrete projects that advance language access at the local level. Other recommendations in the plan, such as Recommendation No. 56 (former No. 57), address the pursuit of funding on a broader systemic level to achieve comprehensive language access.
4.	Sue Alexander, Commissioner, Superior Court of Alameda County	AM	See comments on specific provisions below.	
5.	Diana Barahona, Court Interpreter, California Federation of Interpreters (Comment 1 of 2)	N	See comments on specific provisions below.	

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
6.	Diana Barahona, Court Interpreter, California Federation of Interpreters (Comment 2 of 2)	N	See comments on specific provisions below.	
7.	Kristen Boney, Senior Staff Attorney, Legal Assistance for Seniors	A	I support changes that will increase access to justice for those who have difficulty reading or understanding English. I am a legal services attorney in Alameda County, although I am writing on my own behalf, not my agency's. I represent seniors petitioning for guardianship of children in their care. For years now, our probate court has not provided interpreters for guardianship (or any) cases. My agency and my clients cannot afford to hire interpreters, so litigants must bring family members, none of whom are trained, to act as interpreters. This impedes their access to justice. Many other litigants are self represented and have a much more difficult time than those with attorneys.	The Joint Working Group (JWG) appreciates the comment. No response required.
8.	Kenneth Brooks, Attorney	NI	Thank you for addressing this topic. I read in the [*Daily Journal*] article that actual changes are scheduled for 2015. This may be too soon given the legislative part asking for needs research. I recommend we do the complete research first.	The JWG recognizes the difficulty entailed in the prompt implementation of many of the recommendations in the plan. For that reason, the plan establishes 3 phases within which different recommendations are to begin, taking into account research needs, further analysis and investigation that will need to be conducted, and the need for resources. The JWG appreciates the suggestion to conduct ongoing needs research. Recommendation No. 6 in the <i>Strategic Plan for Language Access in the California Courts</i> (“Language Access Plan”) notes that improved data collection is critical in supporting funding requests as the courts expand language access

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
				services into civil cases.
9.	California Association of Family Court Services Directors, by Robert J. Bayer, Vice-President, and Manager of Family Court Services, Ventura Superior Court	AM	See comments on specific provisions below.	
10.	California Commission on Access to Justice, Hon. Ronald B. Robie, Chair	AM	See comments on specific provisions below.	
11.	California Federation of Interpreters, by Ariel Torrone, President	AM	See comments on specific provisions below.	
12.	California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair	AM	See comments on specific provisions below.	
13.	California Rural Legal Assistance, Inc., by Maureen Keffer, Indigenous Program Director	AM	See comments on specific provisions below.	
14.	California State Bar’s Standing Committee on the Delivery of Legal Services, by Maria C. Livingston, Chair	AM	See comments on specific provisions below.	
15.	Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer	AM	See comments on specific provisions below.	
16.	Indigenous Language Interpreters and Community Organizations, submitted by Maureen Keffer on behalf of several groups	AM	See comments on specific provisions below.	
17.	Legal Aid Association of California, by Salena Copeland, Executive Director	AM	See comments on specific provisions below.	
18.	Superior Court of Los Angeles County (no name provided)	AM	See comments on specific provisions below.	

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
19.	Superior Court of Placer County, Jake Chatters, Court Executive Officer	AM	See comments on specific provisions below.	
20.	Superior Court of Ventura County, Michael Planet, Court Executive Officer	A	The primary goal of this proposed Strategic Plan to "incorporate language access as part of the core court services" is consistent with this court's mission, and one we support. The draft is comprehensive, ambitious, and cognizant of the operational and budget challenges currently facing the trial courts.	No response required.
21.	Superior Court of Orange County, Alan Carlson, Court Executive Officer	AM	See comments on specific provisions below.	

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Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>Chief Justice Tani Cantil-Sakauye was correct when she said the courts must provide equal access to justice for all Californians: “Access to the courts for all LEP individuals is critical not just to guarantee access to justice in our state, but to ensure the legitimacy of our system of justice and the trust and confidence of Californians in our court system.”</p> <p>This is not just a matter of fairness, it is the law, as the U.S. Justice Department told the courts in its August 16, 2010 letter. Not providing interpreters or charging for interpreters is a violation of people’s civil rights, and it has been going on for decades. The courts need to be reminded of this.</p> <p>Therefore I propose that Title VI of the Civil Rights Act, National Origin Discrimination Against Persons With Limited English Proficiency be placed on page one of the Access Plan, not in an appendix on the next-to-the-last page.</p>	<p>The purpose and intent of the Language Access Plan is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to LEP persons. The JWG has added language to this effect in the beginning of the plan.</p>
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<p>The California Commission on Access to Justice is grateful for the opportunity to comment on the <i>Strategic Plan for Language Access in the Courts</i>. The Commission has long been interested in language access issues, and in 2005 published the report Language Barriers to Justice in California to illuminate language access issues in California, as well as to make recommendations for improvement. We are delighted that the <i>Strategic Plan</i> addresses the issues that the Commission was concerned about, and also wish to support recommendations regarding some basic implementation issues:</p> <ul style="list-style-type: none"> • Language access is neither optional nor supplemental. Language access is critical to access to justice, and should be a core service of the courts. We concur with the Chief Justice in deeming language access one of the highest priorities for the courts, and 	<p>The JWG appreciates and agrees with the California Commission on Access to Justice’s thoughtful comments and suggestions regarding successful implementation of the recommendations contained in the Language Access Plan.</p>

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	<p>thank the Joint Working Group for creating a plan in which the early stages of implementation will begin immediately.</p> <p>In these tough economic times for California courts, language access might be regarded by some as an unaffordable luxury, but the Commission believes that it is as important and necessary, as was the implementation of the Americans with Disabilities Act (ADA). In the early days of ADA implementation, there were objections to it—based on cost—that rarely are heard now because people have come to understand that access is a core element of fairness.</p>	
<p>Superior Court of Los Angeles County (no name provided) (Position = AM)</p>	<p>Despite the fact that the California trial courts have suffered some of the worst funding cuts of any court system in the nation throughout the past six years, the Los Angeles Superior Court (LASC) has preserved access to justice in all case types across a populous and geographically spread jurisdiction. Throughout the budget crisis, the Court’s commitment to language access did not waver. Not only did the Court continue to maintain pre-crisis levels of interpreter support, it also continued to expand language services (for instance, through its JusticeCorps program).</p> <p>As LASC emerges from budget disaster, the proposed <i>Strategic Plan for Language Access in the California Courts</i> (Plan) will provide a crucial strategic element in the Court’s rebuilding plan. As a key participant in its formulation, the Court wholeheartedly supports this strategy for moving forward on this important issue. Many of the Plan’s goals are already parts of the Court’s operating strategies. Others are currently being pursued as LASC takes advantage of recent policy changes allowing it to expand interpreter coverage. Yet others remain</p>	<p>The JWG acknowledges and appreciates the efforts of the Los Angeles Superior Court in its commitment to language access in the face of budget and other challenges unique to Los Angeles County. The JWG further appreciates the LASC’s willingness to support increased funding requests from the Legislature.</p> <p>The JWG understands that the plan timelines are aggressive, but respectfully disagrees that the timelines should be tempered. The JWG is aware of the significant changes that will be needed to make the plan a reality and the challenges to meet the plan’s timeline, but it is very appreciative of the LASC’s expressed commitment to working together to achieve the goal of meaningful and comprehensive statewide language access.</p>

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	<p>aspirational, as the Plan recognizes, as LASC struggles (as do all California trial courts) to fulfill all of its constitutional and statutory mandates in a grossly under-resourced situation.</p> <p>The size, scale, scope and diversity of the language needs of those who use the Los Angeles Superior Court are unmatched in any other trial court. Regardless, LASC has already begun to expand courtroom interpreters in domestic violence cases, unlawful detainers, cases involving termination of parental rights, and probate conservatorships and guardianships. Further progress in this direction will of necessity be slowed by significant challenges in several areas. In each area LASC is aggressively working on solutions, but in none of these areas are solutions solely within the Court’s power.</p> <p>The first challenge is that under-funded courts face competing obligations to restore access to justice in a number of areas. Insofar as availability of interpreter funding will continue to be a major challenge, courts will face a balancing act as to which obligations they can fulfill. Similarly, enhancement of currently provided translation, signage and video services will require the balancing of competing needs in the Court’s provision of access to justice across the board. LASC will support legislative efforts to provide permanent funding for needed services.</p> <p>The Court will also continue to explore more efficient ways of delivering interpreter services. To get the most out of scarce resources, training for LASC’s “front-line” staff, from the doorway of the courthouse, to the well of the courtroom, is another important prerequisite that is underway. As the Court’s current business process improvement efforts continue, they will improve its ability to deploy the language resources</p>	

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	<p>already possessed by court employees.</p> <p>Second, even upon solving these funding problems, the courts will still face an absolute shortage of certified interpreters in many languages in many areas throughout the state. LASC is finding creative ways to recruit interpreters – for instance, providing opportunities for people who are studying to become an interpreter to interpret for Teen Court participants, giving the interpreter students a positive experience of court interpretation.</p> <p>Third, automated solutions are required for many of strategies in the Plan and building those new technologies require both time and money. For instance, knowing the needs of court users, and capturing that knowledge for planning purposes, are important parts of the plan. Automated solutions are absolute necessities and are being integrated into the Court’s current efforts to automate its case management systems and other business processes.</p> <p>The aggressive timing of Phase II and III initiatives must be tempered by the realities that large-scale changes in courts’ core technologies, a significant shift in legislative funding priorities, and fundamental changes in people’s views of court interpretation as a career, will all take time and are beyond the control of any one court. LASC is, nonetheless, pursuing strategies such as those outlined in the Plan to overcome these challenges. [*Note: See comment below regarding former Recommendation No. 76 (Now No. 74)*]</p> <p>Overall, the Plan captures well the challenges of this crucial facet of providing access to justice in Los Angeles and across California. We look forward to working with the council</p>	

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	and other trial courts in continuing to make progress toward these goals.	
California Federation of Interpreters, by Ariel Torrone, President (Position = AM)	[*Note: CFI submitted substantial narrative comments regarding use of video remote interpreting – their recommendations are excerpted below in Goal II section*]	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	[*Note: CFI submitted substantial narrative comments regarding all aspects of the draft plan – their comments regarding specific LAP recommendations are excerpted below*]	
41 Legal Services and Community Organizations (Position = AM)	[*Note: The 41 Legal Services and Community Organizations submitted substantial narrative comments regarding all aspects of the draft plan – their comments regarding specific LAP recommendations are excerpted below*]	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>GENERAL COMMENTS: USE OF THE TERM “WILL” IN RECOMMENDATIONS: Several of the recommendations use the term ‘will’ in describing what the branch or courts are to do. Although these are recommendations to the Judicial Council and not (yet) rules of court, there should be a discussion before recommendations are made about the use of the term “will.” Without this, there will be a reaction to the use of the term even before getting to the substance of the idea. The discussion would be most constructive if it included the theory of why “will” was used in some instances, and “should” in others. For example, this would also help clarify when the Joint Working Group felt an activity was required by law, supporting use of the term “will,” as opposed to a policy preference, suggesting the use of the term “should.”</p> <p>USE OF THE TERM CIVIL TO REFER TO CASE TYPES: Since the impetus for the report is in large part the</p>	<p>Use of “will”: The JWG disagrees with the comment that an explanatory paragraph is necessary. The JWG was very deliberate in its use of the terms “will,” “must” and “should” throughout the recommendations of the plan, and has made further revisions to clarify the wording of individual recommendations. Where the recommendations addressed policy statements regarding language access, or addressed activities that are required by law or are under the power and control of the Judicial Council, the terms “must” and “will” were generally used. Where the JWG made recommendations for local courts to take certain actions to expand language access at the local level, the term “should” was utilized.</p> <p>Use of “civil”: The JWG agrees. The plan has been modified to include</p>

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	<p>expansion of the mandatory use of interpreters beyond criminal and juvenile cases, there needs to be an early discussion of the term “civil” when describing classes of cases. To the average reader, “civil” probably means personal injury cases like auto accidents, contract cases, etc. Not everyone is aware of the legal definitions of “civil” to essentially be everything except criminal cases (see CCP sections 22 et seq.). This could be addressed with a short paragraph in the beginning (see first paragraph on page 10, or at footnote 19 on page 29) indicating that the use of the term “civil” is meant to include all cases other than criminal and juvenile, including family law, probate, mental health, etc., so that the reader starts out knowing “civil” includes a wide range of cases not normally associated with “civil.”</p> <p>UNDUE DEFFERENCE TO REGIONAL AGREEMENTS: MOU’s between courts in a region and the representatives of interpreters are negotiated agreements. They are not statutes or rules of court. If provisions in an MOU are impediments to providing language services, the recommendation should say the agreements should be renegotiated, not treated as inviolate. This is a language access plan for litigants and people coming in contact with the courts, not a full employment act for court interpreters. See recommendations 28 on page 49, 29 on page 50, 32 on page 50, 33 on pages 50-51, footnote 28 on page 48, and recommendation 66 on page 80.</p>	<p>a section clarifying concepts used throughout the plan, including the term “civil.”</p> <p>“Undue deference to regional agreements”: The JWG agrees. The Language Access Plan has been modified to include language that the intent of the Plan is that all of its recommendations be applied consistently across all 58 trial courts. To the extent that provisions in local bargaining agreements are in conflict with any of the recommendations contained in the Plan, it is recommended that local agreements be modified or renegotiated as soon as practicable to be consistent with Plan recommendations and to ensure that, at a general level, courts provide language access services for LEP persons that are consistent statewide. However, the drafters of the Plan recognized that differences in local demographics, court operations and individual memoranda of understanding with court employees may constrain individual courts’ abilities to fully implement certain of the Plan’s recommendations.</p>

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Goal I: Improve Early Identification of and Data Collection on Language Needs.		
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California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	In addition to the seven recommendations identified in support of this goal, SCDLS urges the Judicial Council to create an optional form to collect information from litigants at the time of their respective initial filings or first appearances regarding whether there is a need for an interpreter and in what language. The form should be translated in every language spoken by 5 percent or more of any county’s population within California. The clerk can then input the need for language services in the case system, thereby identifying the need for such services while promoting a more coordinated system for the provision of interpreters. The optional form would give the courts one method of early identification of language needs thereby facilitating the coordination of interpreters.	The JWG appreciates the recommendation from SCDLS regarding the creation of an optional form to collect information from litigants as early in the process as possible. Other commentators have suggested similar ideas. The JWG believes the specific manner in which data will be collected early on in the court process (and throughout the court process), or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward SCDLS’s recommendation to the Implementation Task Force for further analysis and recommendation.
California Rural Legal Assistance, Inc. (Position = AM)	CRLA supports the Plan’s goal of collecting improved data on the language needs of LEP Californians and identifying LEP court users’ needs as early as possible in their interactions with the courts. However, the Plan should place greater emphasis on improved data collection earlier in the Plan’s implementation, especially with regard to data on underserved languages [FN: We use the term “underserved languages” to refer to any languages for which the demand for language services exceeds the supply of available, qualified language service providers.]	The JWG agrees that improved data collection is very important. Recommendation 6 regarding the expansion and improvement of data collection begins in Phase 1 of implementation. The JWG proposes no change to the plan in response to this comment.
41 Legal Services and Community Organizations (Position = AM)	The recommendations concerning Goal I are too broad, do not give sufficient direction, and do not adequately address the guidelines governing the courts’ obligations under Title VI of the Civil Rights Act of 1964. Pursuant to the federal Department of Justice guidelines, courts must assess the number or proportion of LEP persons served or encountered in their eligible services population. This straightforward process is key in determining what resources are required to address the language needs of a court’s eligible population for the purpose of compliance	The JWG disagrees. The recommendations in Goal 1 establish a set of policy guidelines for the Implementation Task Force to use in its establishment of more concrete actions to improve data collection. The plan also states that notice and other key resources for LEP court users should be provided in English and five other languages based on local community needs assessed through due diligent communication with justice partners including legal services providers,

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	<p>with federal law. If executed properly, every county should be able to identify most, if not all, of the language groups in their eligible service area, including the top five languages, in a relatively short period of time.</p> <p>The current plan points to other data sources and strongly suggests, but does not direct, that the courts go beyond the U.S. Census and American Community Survey (ACS) when determining the possible language groups to be served.</p>	<p>community based-organizations, and other entities working with LEP populations.</p> <p>Recommendation 7 addresses the importance of collecting data beyond the US census information, and suggests additional sources of data. The JWG does not at this point believe this recommendation should be a mandate to courts.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendation No. 1*]Many courts are in the process of updating their case management systems. Be sure that any case management system adopted by the courts has the ability to capture and maintain the language need information.	The JWG recognizes that courts have different case management systems, if at all, and that the development of case management systems must integrate language access needs. The JWG has therefore amended Recommendations Nos. 1 and 2 accordingly.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p>Recommendation 1. We agree that the courts should identify the language needs of each person at the earliest possible point of contact with the court system. However, the Plan does not consider how court staff will determine what each person’s language needs are. Indigenous languages have many different regional variations, and if court staff do not ask the right questions, an indigenous language speaker may be provided an interpreter who speaks a variation that he or she does not understand. The Plan should specify how court staff will identify an indigenous language speaker’s language needs, specifically by asking the court user what his or her community of origin is, since this is the best way to ensure the correct interpreter is provided.</p> <p>It is also important that the Plan state who will be responsible for collecting this information. In addition to the interpreter coordinator or other court staff, Spanish language interpreters can be an important source of this information, because they</p>	The JWG believes the specific manner in which language needs information will be identified and collected early on in the court process (and throughout the court process) or by which LEP court users themselves may identify their need for language services, more properly belongs in the implementation phase of the plan, and will forward the specific comments provided to the Implementation Task Force for further analysis and recommendation. The same applies for who will have the responsibility for collecting the information. The training needs associated with identification of language needs are addressed under Goal 6, “Provide Judicial Branch Training on Language Access Policies and Procedures.”

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	<p>often encounter indigenous language speakers who have been mistakenly identified as Spanish speakers. Spanish interpreters should be trained in how to identify indigenous language needs and report this information to court staff immediately.</p> <p>On the issue of data collection, it is also important that the courts gather data on the number of interpreters available to interpret in indigenous languages, including the specific regional variations that each interpreter speaks. The courts should be aware of what language needs exist in the community, but they should also understand what interpreter resources exist in indigenous languages to determine what languages should be prioritized for developing additional trained interpreters. Collecting this information in one centralized database for the entire state will also help court staff to locate available interpreters to meet the needs of indigenous language speakers.</p>	
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 1*] Identification of language access needs <i>at the earliest possible point of contact</i> would most practically be effectuated by modifying virtually all Judicial Council forms, including the fee waiver request form, to include a self-indication of language access needs. Absent an approach that is based in large part on modification of mandatory court forms, there is no way to practically and consistently ensure identification of such needs. Inclusion of this aspect of the recommendation in Phase 1 should be dependent on the timing of form modification.</p> <p>Documentation of needs in the CMS assumes that a court has a CMS for all case types. Most courts, including the Alameda Superior Court, do not. While CMS' will be more widespread in the future as court spend-down processes are realized, this recommendation should not be included in</p>	<p>Recommendation No. 1 has been modified to reflect the flexibility needed for courts with limited, if any, case management systems. As currently written, the recommendation allows for implementation in Phase 1 regardless of sophistication of case management systems.</p> <p>The JWG believes the specific manner in which language needs and data will be collected early on in the court process (and throughout the court process) or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>

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	Phase 1.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 1. Language access needs identification. Language access needs must be clearly and consistently documented in the case management system and in court records.</p> <p><i>The courts currently have very poor systems for tracking language access needs. It is imperative that courts prioritize including language access needs into the electronic case management systems. CFI has been talking to courts about this for years, because it would greatly assist interpreters in managing their time to know which cases on calendar need interpreters. For years courts have said that they have other priorities in terms of programming changes to their existing systems. Any new case management systems must include electronic recording and tracking of language needs. Such a system should include a way to note, when known, whether witnesses in a case require an interpreter, and the language.</i></p> <p><i>Current processes (including interpreter daily activity logs, interpreter request protocols and the CIDCS reporting system) are inefficient and unreliable. In most courts the computerized calendaring systems cannot track and search for interpreter needs. This makes it difficult if not impossible for interpreter coordinators to efficiently manage interpreter resources. The goal should be for an interpreter coordinator to be able to electronically search for and produce a list of all pre-scheduled cases in need of an interpreter by date or other timeframes.</i></p>	Recommendation No. 1 has been revised to more clearly address the need for early tracking to be electronic and in a case management system were feasible (and where not feasible, in any existing record system available), with provisions for inclusion in future system development where mechanisms are not yet in place.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 1*] While the concept of early identification of language needs seems obvious, it needs to be balanced against the cost effective delivery of language assistance. For example, OC allows parties to self-identify	The JWG disagrees and recommends identification of LEP court users at the earliest possible stage, wherever and whenever possible. The JWG believes the specific manner in which language needs will be collected early

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	<p>language needs on traffic and collection matters through a Reserve A Court Date (RACD) online system before their first appearance. While this gives the court advance notice of language needs, there are two problematic aspects: no-show rate and actual English speaking ability. Some parties select a foreign language even though they speak English as well and may not need an interpreter. A high no-show rate means interpreters are scheduled for appearances, but are not needed, wasting a scarce resource.</p> <p>Absent a pre-appearance self-identification of language need, the first appearance is when need becomes known and should be captured. Once identified, the CMS can document the use and need of interpreters as long as the proper action codes are used and quality assurance in place to ensure the correct language is encoded and changes are made as needed.</p>	<p>on in the court process (and throughout the court process), or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 2*] This recommendation will be difficult to implement, particularly absent a definition of persons with a significant interest in a case. Further, absent a CMS, there is no meaningful way to track granting or denial of requests – other than hand notation in the case file.</p>	<p>Recommendation No. 2 has been revised to reflect the flexibility needed for courts with limited, if any, case management systems.</p> <p>The definition of “persons with a significant interest” has likewise been modified to provide clearer guidelines to courts, including a provision that the court may exercise its discretion when making a determination of who is a “person with a significant interest.”</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 2*] Historically, this has only been done for defendants and witnesses on traffic, misdemeanor, and felony cases. “Other persons with a significant interest in the case” is an overly broad term, and needs to be more clearly defined. For example, is a member of the media reporting a person with a significant interest in the case? What about a</p>	<p>The definition of “persons with a significant interest” has been modified to provide clearer guidelines to courts, including a provision that the court may exercise its discretion when making a determination of who is a “person with a significant interest.”</p>

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	family member? Courts will have to develop/modify procedures for tracking requests that were denied and / or use of privately retained interpreters in other case types, and must modify procedures and case management systems as needed to capture the additional data.	In terms of developing or modifying procedures for tracking denials and/or use of private interpreters, the JWG understands that case management systems may have to be updated or modified to obtain necessary data and information for proper tracking of language access needs and provision of services.
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p>Recommendation 3. “Justice partners” should include indigenous community organizations, since they are most likely to have direct connections with indigenous language speakers whom government and other community agencies often fail to reach. In addition, there should be clear protocols for how justice partners can communicate an individual’s language needs to the court.</p> <p>If an individual is detained, he or she should be given the opportunity to self-identify as in need of an interpreter, and this need should be communicated to the court.</p>	<p>The definition of “justice partners” has been made broader to encompass any relevant organizations or agencies.</p> <p>With regard to clear protocols, the JWG believes the specific manner in which language needs will be identified early on in the court process (and throughout the court process) or by which LEP court users may identify the need for language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p> <p>With regard to an individual’s opportunity to identify their language needs to a justice partner, the JWG believes they do not have the ability through this plan to impose upon justice partners mechanisms related to their internal operations.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 3*] In many cases, the first contact with an individual needing language assistance is a justice partner, not the court. The recommendation should not be stated as if it is only the court’s responsibility to do this. It should state the courts should work WITH justice partners to develop protocols.</p>	<p>The JWG agrees that it is often the case that LEP court users’ first contact is with a justice partner, and it is the intent of this recommendation to encourage courts to establish protocols with justice partners. With regard to an individual’s opportunity to identify their language needs to a justice partner, the JWG believes they do not</p>

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	Some concerns regarding this recommendation include: - Incorrect language identification by justice partners (for example, Chinese instead of Mandarin or Cantonese); - Defendant cited and released, but a complaint is filed and the appearance date is changed; and - High volume of failure to appear cases, especially in misdemeanors.	have the ability through this plan to impose upon justice partners mechanisms related to their internal operations.
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)	[*Recommendation No. 4*] As noted in the comment to #1 above, achieving this goal best involves a statewide approach.	The JWG agrees.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 4. Mechanisms for LEP court users to self-identify. Add to recommendation: <i>Court staff will be trained to include a notice that free language access services are available in general announcements given to court users at the beginning of calendars.</i>	The JWG believes the specific manner in which LEP court users may identify the need for language services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 4*] As interpreter use is expanded into other case types, information sheets, forms, web-sites, procedures, etc. will need to be modified to contain information notifying parties how to request an interpreter. Ideally, once a request is identified and entered into a CMS, the interpreter office would receive a report or notification so that an interpreter could be scheduled / ordered in advance. Early self-identification of language needs represents a departure from past practice of waiting for the court user to appear before a Judicial Officer before ordering an interpreter, thus shifting the authority down to line staff to identify the need for an interpreter based on early identification by the court user. This is a culture shift that will require wide stakeholder acceptance. Also, inevitably there will be some no-shows, and individuals	The JWG believes that the court has an affirmative duty to identify language needs as early as possible. The JWG believes the specific manner by which LEP court users may identify the need for, or request the provision of, language services, more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.

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	<p>who decide they understand and speak English well enough that an interpreter is not needed resulting in some unnecessary added expenses. Early identification raises the issue of how much responsibility the court has to anticipate problems and overtly act to avoid. The court does not currently seek to identify litigants needing counsel, even though the need for counsel may be as critical as the need for an interpreter. It is not clear where the balance is, which suggests more thought needs to be put into when and where it is appropriate for the court to anticipate and intervene.</p>	
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p>Recommendations 4 and 5. The interpreter coordinator or language access coordinator for each court should be in charge of ensuring that LEP persons are given the opportunity to self-identify as needing an interpreter. However, “I Speak” cards and written notices will not be useful to many indigenous language speakers, since the majority do not know how to read or write in their native language. The courts should partner with indigenous community organizations in conducting outreach to ensure that indigenous language speakers understand their right to an interpreter before they ever arrive at the courthouse and know how to self-identify as in need of language assistance. Audio and video materials in indigenous languages introducing individuals to the courts should also include information on the right to a language assistance and how one can request an interpreter.</p>	<p>The JWG believes the specific manner by which LEP court users may identify the need for language services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 5*] Clarity regarding how, at a minimum, courts are to notify users about available language access services throughout the duration of the case, is needed. Without specificity and some parameters, this recommendation cannot be meaningfully implemented.</p>	<p>Recommendation No. 5 has been revised. The JWG believes further detail on how to notify LEP court users of language access services more properly belongs in the implementation phase of the plan, and will forward specific suggestions to the Implementation Task Force for further analysis and recommendation.</p>

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Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 5*] As interpreter use is expanded into other case types, information sheets, forms, web-sites, procedures, etc., will need to be developed or modified to contain information notifying parties how to request an interpreter. Since all courts will need this, it seems appropriate for the development of these materials to occur at the state level.	Recommendation No. 37 has been added to the plan as a new recommendation: “37. The Judicial Council staff will work with courts to provide samples and templates of multilingual information for court users that are applicable on a statewide basis and adaptable for local use.”
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 6. The Plan should specifically direct the Judicial Council and the courts to gather data on language service needs in each case, including at a minimum the language(s) needed and the type of case or proceeding. This data should be made public in order to inform development of policies and also to determine how best to invest resources in training for interpreters and courts.	The JWG agrees.
41 Legal Services and Community Organizations (Position = AM)	6. [* Proposed Language*] The Judicial Council and the courts must immediately expand and improve data collection on interpreter services, and immediately expand language services cost reporting to include amounts spent on other language access services and tools such as translations, interpreters or language services coordination, bilingual pay differential for staff, and multilingual signage or technologies. This information is critical in supporting funding requests as the courts expand language access services into civil cases.	Recommendation No. 6 has been partly revised in agreement with this comment. This recommendation is already slated for Phase 1, which means it is prioritized for immediate implementation, thus addressing the proposed edit to add the term “immediately.”
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[* Recommendation No. 6*] Currently under way under new Judicial Council reporting requirements. Some trial courts will require additional resources in order to meet these requirements fully. Until courts can develop more robust systems for collecting this data routinely, an effort needs to be made to sample or otherwise begin to get estimates of the need and costs without waiting for every court to begin reporting.	The JWG recognizes that full implementation of some of the recommendations in this plan will require additional resources. While Recommendation No. 6 is prioritized for Phase 1, the phasing language clarifies that implementation “must begin by year 1 (2015)” but does not require it be completed by year 1.
Sue Alexander, Commissioner, Superior Court of Alameda County	Recommendation 7 – Add county social services to list.	The JWG agrees. Recommendation No. 7 has been revised accordingly.

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California Rural Legal Assistance, Inc. (Position = AM)	<p>Recommendation 7: Use of sources beyond the US Census. We appreciate the Plan’s acknowledgement, in recommendation 7, of the importance of using other sources of data beyond the US Census in assessing language needs. However, we echo the concern raised in the comments submitted by legal services organizations that the placement of Recommendation 7 in Phase II of the Plan’s implementation would cause problematic delays in the achievement of the Plan’s broader goals.</p> <p>In order for the Judicial Council and the courts to understand the extent and diversity of the indigenous language speaking population in California, it is essential that they consider sources beyond the US Census. As we pointed out in the legal services organizations’ comments on the draft outline for the Plan, the Census does not provide meaningful data on indigenous language speakers, identifying most indigenous languages only by broad language families, which does not help in determining the actual language needs of court users. Under the draft Plan, no meaningful information would be gathered on the indigenous language speaking populations in California until 2016 or later, hampering the courts’ and the Judicial Council’s ability to adequately plan for and meet these needs.</p> <p>Much work is needed to build the capacity of indigenous interpreters and establish procedures for serving indigenous language speakers outside the courtroom. These efforts must be informed by a more accurate understanding of indigenous language needs on a court-by-court basis. A number of California-based researchers who have extensive experience with indigenous communities could be enlisted to assist in</p>	The JWG disagrees with moving Recommendation 7 to Phase 1 at this time. However, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine that Recommendation 7 should be moved to Phase 1, if appropriate, after further analysis.

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	gathering this data. This work should begin immediately and be included in Phase I of the Plan.	
41 Legal Services and Community Organizations (Position = AM)	<p>7. [*Proposed Language*] The Judicial Council and the courts must look at other sources of data beyond the U.S. Census to ensure that a court is effectively capturing the anticipated language needs for court programs and court proceedings. Courts should rely on data provided by the local school systems, health departments, and welfare agencies, in addition to consulting with community-based organization, refugee services organizations and any other local groups that works with LEP populations.</p> <p>Proposed Revised Timeline: Recommendation 7, listed above, is currently categorized under “Phase II,” treated as a recommendation that is “less urgent or require completion of Phase I tasks. Recommendation 7 must be included in Phase I so as to ensure that courts are adequately anticipating their language needs.</p> <p>[*Noted on pg. 6 of comments provided*] It is perplexing that the LAP acknowledges the deficiencies in the Census data, identifies more reliable sources, and then fails to direct that the superior sources be utilized in a timely manner. These more reliable sources include: enrollment data collected by the California Department of Education; data collected by local welfare agencies; data collected by the Migration Policy Institute; and a study conducted by California Rural Legal Assistance regarding indigenous languages spoken in California rural communities.</p>	<p>The JWG disagrees with moving Recommendation 7 to Phase 1 at this time. However, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine that Recommendation 7 should be moved to Phase 1, if appropriate, after further analysis.</p> <p>While the JWG appreciates the additional detail suggested, the JWG believes the language of the recommendation is sufficient.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer	[*Recommendation No. 7*] Recommend local courts report and consider local need only. It is not clear how knowing population characteristics will help a court with planning for either the	The JWG believes the recommendation, as written, is clear and provides for research of data at the state level for statewide related needs, and at the local level for

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(Position = AM)	general need for interpreters or the need for interpreters on specific days. At best, the type of information listed should be used at the state level to identify where there may be a need for language assistance that is unlikely to be met with existing resources, thus suggesting the efforts described in the outreach recommendations be focused on specific languages.	local court needs. Further detail may be provided in subsequent stages by the Implementation Task Force if deemed necessary.

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Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>Regarding Appendix A: Phase-In of Recommendations: PHASE I: These recommendations are urgent or should already be in place. Actions to begin implementation of these recommendations should begin by year 1 (2015).</p> <p>#8 Expansion of court interpreters to all civil proceedings. Qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and in all court-ordered/court-operated events.</p> <p>Missing from Phase 1 is the urgent need for courts to stop charging parties for interpreting services they receive, which is a violation of their civil rights under Title VI of the Civil Rights Act. In the Compton courthouse, Dept. M, the court is still ordering parties who use an interpreter to pay \$76 for each hearing. This practice must stop immediately.</p> <p>Another practice that must stop immediately is civil clerks instructing parties to bring their own interpreters to court-ordered mediations and other court-ordered events. Instead, civil clerks must be instructed to call interpreter services and schedule interpreters for court-ordered events.</p>	<p>Within the context of the draft plan, the term “provided” (as in “qualified court interpreters will be provided”) means at no cost to the LEP court user and without cost recovery. Additionally, AB 1657 (Stats. 2014, ch. 721) for the first time provides in California law that courts may not charge litigants for the cost of providing an interpreter. Prior to this language, California law permitted courts to charge for these services.</p> <p>The committee appreciates the clarification that where and when appropriate, civil clerks should be instructed to call interpreter services and schedule interpreters for court-ordered events. Recommendations No. 8 and 10 provide that qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings and in all court-ordered and court-operated events. A number of recommendations address proper training for court staff on all aspects of the plan.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	<p>Recommendation 8 - Since current provisions for interpreters include minors and parents in dependency cases only if an attorney has been appointed, Phase 1 should include interpreters for minors and parents who are self-represented in dependency cases.</p> <p>To clarify, Other Family Law are family law matters (dissolutions, legal separations, nullities and petitions for custody and support) that do not have domestic violence allegations, whether there are children or not. UPAs would be included in Phase 1 as parentage is determined in those matters.</p>	<p>Recommendation No. 8 has been revised to reflect the legislative mandate, effective January 1, 2015, of new Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	Where do family law cases with children born before or after separation fall? Is there a distinction for cases with/without Voluntary Declarations of Paternity? Since determination of whether the court provides an interpreter or not during the phase in will be so fact specific, it may be better to just include all family law matters with children and/or domestic violence allegations in Phase 1. (I realize that will increase the funding need.)	
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	The plan provides for a phase-in approach for the provision of interpreters by case type where “immediate expansion of language access in all civil proceedings overtaxes a court’s resources, either in terms of availability of appropriately qualified interpreters or availability of funding for interpreting services.” SCDLS prefers an immediate implementation of this goal no matter the case type given the implications that language barriers have on access to justice, but if not feasible, then priority should be given to litigants that have identified themselves as indigent. SCDLS also points out that many litigants in family law proceedings are unrepresented and encourages a plan that would immediately phase in interpreters for all such proceedings.	Recommendation No. 8 has been revised to reflect the legislative mandate, effective January 1, 2015, of new Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).
California Association of Family Court Services Directors (Position = AM)	The Issue Description for Goal IIb uses Family Court Services mediation to illustrate the need for Interpreters in Court-Ordered/Court-Operated Proceedings. It is very difficult to reconcile this clear and strong statement with the failure to explicitly include Family Court Services mediation in Phase I of Phase-In Recommendation #8 in Appendix A. Family Law Mediation is a critical stage in the life of the child and the family. Family Code section 3170 requires that all actions to obtain or modify a custody or visitation order utilize Court-connected mediation services. Statewide, more than half	The JWG agrees that child custody mediation as well as recommending counseling are critical stages in family law proceedings involving children. Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Family Court Services Mediation is considered part of Phase 1 per the prioritization in Evidence Code 756.

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	<p>the cases in Family Law Mediation result in agreements about child custody and visitation which become orders of the Court. In 34 of the 58 counties, if no agreement is reached the mediator makes a recommendation to the Court. Mediators are mandated to help effect a settlement of issues, or make a recommendation, in the best interest of the child. They cannot do this with LEP litigants without adequate interpreter services.</p> <p>The Phase-In Recommendation gives priority to Domestic Violence cases brought under Division 10 and where DV protective orders have been or sought or granted, but it overlooks the fact that FCS mediators must address Domestic Violence issues even if they have not been the subject of formal court action. Pursuant to Family Code sections 3011 and 3170(b), and the extensive protocol in Rule of Court Rule 2.215, mediators are mandated to screen for and address DV in all Family Law cases. It is reasonable to suspect that LEP parents are less likely to avail themselves of the statutory protections for Domestic Violence, and are the most in need of interpreters for clear communication with a FCS mediator who is screening for these issues.</p> <p>The Phase-In Recommendation gives priority to cases involving Determination and Termination of Parental Rights, but when read in conjunction with the category “Other Family Law” in Phase II, this language implies the issues are limited to those in Division 12 of the Family Code. This overlooks the fact that a determination of paternity will almost always result in Family Court Services mediation of the issues of custody and visitation under Division 8. In a Family Law case under Division 8, when FCS mediation contributes to an order for sole legal and physical custody to one parent, the result is a de facto temporary termination of parental rights.</p>	

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	<p>The Phase-In Recommendation gives priority to Guardianship cases, but overlooks the fact that the issues in Family Law mediation are, from the child's standpoint, identical. Custody, visitation, and domestic violence issues addressed in court-connected Family Law mediation are coequal with and essential components of the issues and actions in three of the four categories that are included in Phase I of Phase-In Recommendation #8. The cost of including FCS mediation in Phase I will be relatively small because Family Court Services departments use mediators who are bi-lingual in Spanish to a great extent. When they aren't available, and for other languages, providing interpreters for LEP parties in FCS mediation is essential and deserves the highest priority. Family Court Services mediation should be explicitly included in Phase I of Phase-In Recommendation #8 in Appendix A.</p>	
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>Although we agree with Goal II's recommendation that qualified interpreters be provided to all LEP court users in courtroom proceedings, we disagree with the Goal's implementation timeline, the priorities outlined in the phases, and the overall tone with respect to existing federal and state law Goal II consistently repeats that no law requires provision of interpreters for civil litigants. As discussed in our introduction, the repetition of this position is flatly contradicted by federal and state law, as well as the considered opinion of the Department of Justice.</p> <p>Furthermore, the LAP's timeline to provide interpreters for all civil litigants by 2020 is simply too long and unjustified. Several phases elaborated upon in the LAP have already begun or should have begun. We agree that interpreters should be provided to all litigants, regardless of economic status. However, we are concerned that the LAP not only fails</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3). Additionally, modifications have been made to the tone of the document.</p> <p>The JWG agrees that the terminology used in the draft plan for "court proceedings," and "court-ordered/court operated" proceedings or events was confusing. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court.</p>

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	<p>to include fee-waiver litigants in Phase I, but also fails to mention such litigants <i>at all</i>.</p> <p>Finally, we find the LAP’s subcategories confusing and inconsistent (e.g. courtroom proceedings, court-ordered, court-operated). Footnote 9 at page 12 defines “court-operated” programs or events as “any service or activity operated or managed by the court.” On page 34, the LAP references “court-ordered proceedings” as including mediation and other activities that are mandated by the court. Footnote 25 on page 36 combines “court-ordered/court-operated proceedings” which distinguishes between in-court events and out-of-court events. We recommend that the LAP clearly define the different categories of court-ordered, court-operated, and court-managed proceedings, services, and activities. Most important, qualified court interpreters must be provided for all activities ordered or mandated by the court.</p>	
<p>Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)</p>	<p>PHASE I – 8. Preference for in-person interpreters Recommendation: delete from the Language Access Plan (LAP). Throughout our recent bargaining over Video Remote Interpreting (VRI), the interpreter’s union California Federation of Interpreters (CFI) representatives continually requested to insert this language in the Memorandum of Understanding (MOU). The Region continuously rejected this language for the following reasons:</p> <ul style="list-style-type: none"> • In Region 3 (made up of 32 courts), during the calendar year of 2013, we were only able to fill approximately 38% of all requests for an interpreter. Now that the Governor has signed AB 1657 (Gomez) which allows for expansion of interpreter services, we need all possible means available to meet the demand for interpreter 	<p>The JWG believes that, generally, the use of in-person, certified and registered court interpreters is preferred for court proceedings as defined in the plan. Recommendation No. 12 (former No. 11), as revised, provides for discretion by the court to use remote interpreting where it is appropriate for a particular proceeding, as long as LEP court users can fully and meaningfully participate.</p> <p>The JWG believes that the language in the plan will allow for remote interpreting to help fill many of the requests in the region which in the past remained unfilled. Even if there is generally a preference for an in-person interpreter, this preference will be irrelevant where no certified or registered interpreter is available in person. The JWG believes that when applying the</p>

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	<p>services if we are truly going to provide quality and therefore meaningful access.</p> <ul style="list-style-type: none"> • A preference for in-person interpreting is also counterproductive to implement Phase II – 14: <i>Pilot for central pool of remote interpreters</i>. If we are able to create this pool of highly qualified certified and registered interpreters, to maximize their availability, we will want to utilize VRI, to maximize services to courts and limited English proficient (LEP) court users. • A preference for in-person interpreting is also counterproductive to implement Phase II – 30: <i>Pilot for Remote assistance and self-help centers</i>. We have already begun to envision how we can utilize our interpreter resources for our self-help centers. To maximize quality talent, we need to be able to utilize VRI, without adverse actions by CFI. <p>In August of 2013 the Chief Justice announced her vision of for improving access to justice for Californians, “Access 3D.” including remote and electronic access [FN: Cantil-Sakauye, Tani G., Letter from the Chief Justice of California, Strategic Plan for Language Access in the California Courts, Draft July 29, 2014, page 4.] The LAP does not need to set forth an in-person preference. We need to remain neutral, and focus on the most qualified – certified and registered interpreters to ensure the most meaningful access possible.</p>	<p>language in the plan, the use of certified and registered interpreters will increase, over provisionally qualified interpreters.</p> <p>In relation to Recommendation 17 (former No. 14), the JWG believes that the language in the plan is flexible enough to allow courts to make great use of a centralized pool of interpreters, most likely, but not exclusively, allowing courts to utilize the pool for urgent, short and/or non-complex matters where remote interpreting will allow for full and meaningful participation.</p> <p>In relation to Recommendation 31 (former No. 30) and self-help centers, the general preference for an in person interpreter does not apply, as the related recommendations regarding a preference for in-person interpreters are specific to courtroom proceedings.</p> <p>Additional guidelines and minimum standards are set forth in the plan.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>We strongly support the Plan’s goal of providing language access services in all judicial proceedings and court-ordered and operated events. We echo the concerns expressed in the comments on behalf of legal services organizations about the Plan’s lack of urgency, and we urge the Joint Working Group and the Judicial Council to establish a shorter timeline for</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	achieving this central goal of the Plan. If interpretation in civil proceedings must be phased in, we also strongly urge that the Plan give first priority to the provision of interpreters for fee waiver litigants in all case types, for the reasons detailed in the legal services organizations' comments.	The JWG decided to include Recommendation No. 10 (regarding court-ordered, court-operated events) in all 3 phases of implementation, so that implementation may begin immediately in phase 1. However, resource considerations for local courts may result in later implementation timelines.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 8. We support the expansion of access to interpreters in all case types. However, the courts should also understand the importance of access to interpreters before individuals arrive at the courthouse and use their role to influence other agencies to provide interpreters as well. For example, social workers should always use interpreters in working with indigenous language speaking children and families to ensure accurate communication and avoid negative consequences once families get to court.	The Language Access Plan cannot require justice partners and other non-court agencies or organizations to provide interpreters. However, a new recommendation, No. 11, has been included to provide for courts to consider the language services accessibility of outside programs in making court orders. Recommendation No. 33 (former No. 32) addresses language access services by outside professionals appointed by the courts, and considerations in identifying or contracting with providers who can provide linguistically accessible services.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 8. Expansion of interpreters to all civil proceedings. The term "qualified interpreters" should be defined throughout the document to mean certified or registered. Although this information is included in a footnote, it is not clear throughout the document what "qualified" means and this may not be understood by readers who do not see the footnote.</p> <p>As noted in our general comments, we do not believe it is necessary to wait until 2020 to provide interpreters in all court proceedings. This recommendation should make clear that the intent is for courts to provide interpreters in all court proceedings as quickly as possible, and that it is not the intent of this recommendation, or the phase in recommendations, for</p>	<p>Definition of qualified interpreter The plan has been revised to clearly define "qualified interpreter" at the outset.</p> <p>Timeline Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3). The explanation of the implementation phases has also been revised to clarify that the phases are not intended to cause courts to stop providing services where they are already provided and</p>

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	<p>courts to stop providing services in areas where they are already providing interpreters. Many courts are already providing interpreters in Phase 2 cases, such as general family law and civil harassment. It would be important to clarify this to avoid a court determining that in order to expand to Phase 1 unlawful detainers, they will stop providing interpreters in family law matter, which are designated as Phase 2 in the LAP.</p> <p>The recommendation to give priority to in-court proceedings over court-ordered events may be impractical and counterproductive. For example, court-ordered mediations are often critical for a family law case to proceed efficiently in court. It does not make sense to provide an interpreter for a proceeding but not for the mediation. This approach may well result in the proceeding being continued at a cost to the court and the parties if they cannot proceed with the mediation due to lack of an interpreter.</p> <p>Additionally, court-ordered mediations are currently included as part of the bargaining unit work of staff interpreters and are covered routinely in many courts. It would not be appropriate for courts to stop providing interpreters for such events as a result of the LAP's phase in schedule, and if as a result parties had to bring their own interpreters, this would violate the interpreter MOU's.</p>	<p>where resources exist for expansion.</p> <p>Custody mediation: See response above regarding inclusion of child custody mediation as well as recommending counseling in Phase 1.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>8. [*Proposed Language / Suggested Changes to the timeline with new subcategories.*]</p> <p>Qualified interpreters will be provided in the California courts to LEP court users in all courtroom proceedings in all court-ordered/court-operated events. Where immediate expansion of language access into all civil proceedings overtaxes a court's resources, either in terms of availability</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>

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	<p>of appropriately qualified interpreters or availability of funding for interpreting services, language access will be phased in as outlined below.</p> <p>For Immediate Implementation:</p> <p>Domestic Violence (including actions and proceedings under Division 10) commencing with Section 6200 of the Family Code, as well as actions and proceedings in the following matters in which a protective order has been granted or is being sought: (1) the Uniform Parentage Act; (2) dissolution, nullity, or legal separation [these are already mandated cases]; All cases brought by fee waiver litigants</p> <p>Phase I (begin year 1, 2015): Language services shall be provided for all required mediation and other required ancillary court services.</p> <p>Physical abuse or neglect under the Elder Abuse and Dependent Adult Civil Protection Act, commencing with Section 15600 of the Welfare and Institutions Code). Unlawful Detainers Determination and Termination of Parental Rights Conservatorships/Guardianships Family Law Proceedings involving issues of custody or visitation of minor children Civil Harassment Proceedings</p> <p>Phase II (begin year 2, 2016):</p>	

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	<p>Where resources permit providing qualified interpreters in additional case types, courts will provide interpreters in the following cases, in order:</p> <p>Other Family Law Other Civil</p>	
<p>Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 8*] Further clarity regarding the scope of “all court-ordered/court-operated events” is needed. This aspect of the recommendation potentially impacts a broad array of services including mediation (in family law, juvenile and civil settings), self-help center workshops, and those resulting from collaborative court processes; using a broad definition of events, this recommendation would be extremely difficult to implement, particularly in Phase I.</p>	<p>The JWG agrees that the terminology used in the draft plan for “court proceedings,” and “court-ordered, court operated” proceedings or events created confusion. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 8*] Recommend each trial court consult with HR Employment Relations staff and regional counterparts prior to implementation of expanded language access.</p> <p>Since accurate data is unavailable in most trial court’s case management systems it is not known what the impact of full expansion would be on the budget or interpreter resources.</p> <p>Recommend that the Judicial Council provide answer forms for Unlawful Detainers and other civil causes of action in the most frequently used languages, or that the forms have a space for early identification of language needs so that interpreter coordinators may receive advance notice.</p> <p>Recommend that the Judicial Council review and modify Family Law and other forms to include space for self-</p>	<p>Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756. Further, the JWG has revised the timeline for Recommendation No. 8, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p> <p>The JWG recognizes that courts have different case management systems, if at all, and that the development of case management systems must integrate language access needs.</p> <p>Commentator’s specific suggestions regarding the need to know budget impacts, necessary form changes, and identification of calendar models that optimize the use of interpreter resources will be presented to the Implementation Task Force.</p>

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	<p>identification in matters that would require an interpreter.</p> <p>Recommend that when expanded language access is provided to new civil areas, courts should utilize calendar models that optimize use of interpreter resources.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 9*] Recommend INT120 be modified or eliminated. Onerous duty for each case. Recommend alternatives to the process and/or updating the form. (Administrative Hearing interpreters are no longer an active class of interpreter.) Consider a single form for difficult to find languages such as – Portuguese, Tagalog, and Japanese.</p>	<p>Recommendation No. 73 (former No. 74) recommends updating the INT forms.</p>
<p>Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)</p>	<p>Recommendation 10 – More clarity is needed regarding court ordered, but not provided, services. Many services are not court provided, e.g. batterers treatment, DUI classes, traffic schools, parenting classes, etc. What “consideration” can the court give if these services are not provided in the community in the litigant’s language? Will the DMV accept an alternative to traffic school? Statutory changes to some mandatory sentencing provisions?</p>	<p>The JWG agrees that the terminology used in the draft plan for “court proceedings,” and “court-ordered/court operated” proceedings or events was confusing. The plan has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. The Language Access Plan cannot require justice partners and other non-court agencies or organizations to provide interpreters. However, courts may consider the language services accessibility of outside programs in making court orders.</p>
<p>Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)</p>	<p>Recommendation 10 (Page 35) – The Working Group recommends that courts provide qualified interpreters at all “court ordered/court-operated proceedings” by 2020.</p> <p>We would suggest separating this recommendation into two parts. The first recommendation could focus on court-operated proceedings and retain your 2020 implementation date. Further, the narrative prior to the recommendation suggests that these types of proceedings may use modes of language access</p>	<p>The JWG agrees and has clarified Recommendation No. 10 to address all court-ordered AND court-operated programs, services and events. A new Recommendation No. 11, has been added to address court-ordered programs that are not operated by the court</p>

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	<p>other than certified interpreters, but the recommendation itself is worded to limit the language access to certified interpreters. Allowing for varied modes, dependent on the service or program, would be consistent with the balance of the Strategic Plan and may allow for more rapid, but still appropriate, implementation within the stated timeframe.</p> <p>The second recommendation could then focus on court-ordered proceedings. A simple read of the existing text seems to suggest the Working Group is recommending court funded and provided interpreters for any program ordered by the court in any case type. The scope of this recommendation is daunting and, in contrast to the great care taken by the Working Group on other recommendations, is so large as to create a feeling of paralysis. It would be helpful if the Working Group would give some priority to types of programs or case types to allow the implementation to be evaluated and, if approved, implemented in stages. For example, is it more important to provide these services in family law to ensure access to supervised visitation or in criminal to those sentenced to probation and ordered to attend drug and alcohol programs? Both present interesting challenges as courts would face potential complications related to hours of work, safety, and equity for interpreters assigned to these non-court offered programs.</p>	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 10. The meaning of “court-ordered/court-operated events” should be defined with examples.	The JWG agrees and has revised the plan language accordingly.
41 Legal Services and Community Organizations (Position = AM)	[*Proposed Language and Timeline Recommendation*] 10. Beginning immediately, as resources are available, but in no event later than 2016, courts will provide qualified court	The comment in part conflates court proceedings with those events intended under Recommendation No. 10 (court-ordered, court-operated events outside of the

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	<p>interpreters in all court-ordered/court-operated proceedings to all LEP litigants, witnesses, and persons with a significant interest in the case. Immediate implementation shall prioritize: fee waiver litigants and mandated cases under current Evidence Code 755. Phase I shall include other non-mandated restraining order hearings, family law custody and visitation hearings, unlawful detainer hearings, guardianship hearings and conservatorship hearings. This shall include the provision of language services for mediation and other required ancillary court services.</p>	<p>courtroom). To clarify, the terminology used in the draft plan for “court proceedings,” and “court-ordered, court operated” events has been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. In addition, a new Recommendation, No. 11, has been added to address court-ordered programs that are not operated by the court</p> <p>With regard to the part of the comment regarding prioritization of court proceedings (addressed in the plan under Recommendation No. 8), Recommendation No. 8 has been revised to reflect new legislation, effective January 1, 2015, establishing Evidence Code section 756 (and repealing Evidence Code section 755). The timeline for Recommendation No. 8 has been similarly revised, assigning its implementation to begin in Phases 1 and 2 (and no longer also Phase 3).</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 10*] CIAP and the Joint Working Group have had a lot of discussion regarding this recommendation. The wording is vague, but it was the general consensus that this should include ALL court ordered proceedings including traffic school, batterer’s programs, Cal Trans, etc.; and that if the court cannot contract with a provider that provides the services in the required language, the court should arrange for an interpreter. There are a few members – those of us more administratively inclined – that have argued that this recommendation should read courthouse proceedings or court-ordered/operated proceedings in the courthouse during normal business hours.</p>	<p>The JWG’s intent was never to include all court-ordered proceedings as provided in this comment. The intent of the JWG was to include only those court-ordered events and activities which are operated and managed by the court. The draft plan, however, was unclear in its use of terminology used for “court proceedings,” and “court-ordered/court operated” proceedings or events. The plan has therefore been revised to define each term more accurately, ensure consistency, and clarify when qualified court interpreters are to be provided by the court. With this clarification, the other concerns raised in the comment should no longer apply.</p>

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	<p>What level of “qualified” court interpreter? Certified and registered for ALL programs?</p> <p>Recommend consideration must be given for using interpreters with oral proficiency level qualifications.</p> <p>This would mean scheduling interpreters on weekends? Would this be employee interpreters on OT? What if there is a problem and the interpreter doesn’t show up – does a coordinator need to be on call? How many more coordinators would be required to arrange interpreter services for weekend/evening proceedings? If interpreter offices are to supply interpreters during business hours to travel to an outside facility for an evaluation other than the jail, this would increase work for coordinators and more interpreters (and coordinators) would be needed. For example, the court may authorize an interpreter for any service needed (investigation, visitation or any participation in services).</p>	<p>In addition, a new Recommendation No. 11 has been added to address court-ordered programs that are not operated by the court.</p>
<p>Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)</p>	<p>Regarding the use of VRI to expand language access: I support the position of the California Federation of Interpreters, which stated the following: “The experience of judicial systems in other states, as well as its application in private industry indicates that VRI is often implemented with unreasonable expectations for its potential to increase language access services and reduce costs while ignoring concerns and the limitations of the technology. Large outlays of capital are undertaken to implement the technology resulting in users becoming invested in the use of VRI regardless of the harm it may cause. This then presents court administrators with the problematic choice of maintaining a commitment to use a system that oftentimes does not provide meaningful access, or abandoning a significant investment that was originally meant</p>	<p>The issue description in Goal 2 addresses the advantages and disadvantages of remote interpreting and the need for appropriate safeguards to be put in place.</p> <p>The plan also explicitly states that court interpreters must be qualified and must follow professional standards and ethics. Whether or not a court hires an interpreter through an agency is irrelevant, as the court is still required to use qualified interpreters and establish the basis for their qualification. The JWG believes this language will increase the use of certified or registered interpreters, since courts will now have access to interpreters working across the state, and possibly the country. As an example, California’s courts now have</p>

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	<p>to save money.” (September 2013) http://www.calinterpreters.org/wp-content/uploads/2013/10/CFI_VRI_Position.pdf</p> <p>There has been a headlong rush by courts to outsource interpreting services to companies promising lower costs without asking for any input from interpreters themselves. The draft Access Plan itself highlights the many problems with remote interpreting, but without asking whether these problems, and the investment in the technology, will be worth the savings in labor costs. The Access Plan only vaguely mentions potential savings (and in my view, exaggerates them) without giving any numbers. How much money are these private companies going to charge per day or per half-day or per hour for a remote interpreter?</p> <p>Additionally, are these interpreters all certified and registered? Since the Access Plan does not state categorically that certified or registered interpreters must be used in all court proceedings involving widely-spoken languages, I suspect that the prices quoted by the private companies may be for interpreters who are not certified or registered in California.</p> <p>Furthermore, although the Access Plan calls for giving the remote interpreter the opportunity to say that it’s not working out, does anyone really believe that an interpreter working for a private company is going to say the hearing should be rescheduled so that a live interpreter can come in? Employees or even independent contractors are going to do what their employers want them to do, and that means that they absolutely will not say that their company should not be used for a hearing. And if that is the case, who is going to advocate for the LEP persons?</p>	<p>access to 5.7% more certified ASL interpreters who have joined the Master List from out of state in order to interpreter remotely. To ensure that qualified court interpreters provide language access services, whether in-person or through remote technology, the draft plan provides as follows:</p> <ul style="list-style-type: none"> a) Goal 2 addresses using qualified court interpreters for all judicial proceedings by 2017, and Recommendation No. 8 reiterates the use of qualified interpreters. b) The plan defines that qualified interpreters are certified or registered, or provisionally qualified. The plan also tightens the rules/requirements for a finding of good cause regarding provisional qualification (See Goal 2, Rec. No. 9, and Goal 8, Rec. No. 70 [former No. 71]; see also Rec. No. 50 regarding training on provisional qualification). c) Appendix B, No. 6, states that “[t]he same rules for using qualified interpreters apply to assignments using RI [remote interpreting]. It is the intent of this language access plan to expand the availability of certified and registered interpreters through the use of RI. All interpreters performing RI should be familiar with, and are bound by, the same professional standards and ethics as onsite court interpreters.”

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	<p>Finally, the remote interpreting companies are for-profit, whereas most court interpreting is performed by state employees. These private companies can only make a profit if their employees receive less in total compensation than public employees, which they will because they will not be unionized.</p> <p>The requirement by the DOJ that the courts stop violating the civil rights of LEP individuals should NOT be used as an excuse to outsource work done by unionized state employees to non-union private corporations. As with all other cases of outsourcing, there will NOT be any real cost savings, but simply a shift in costs from the courts to workers receiving lower pay and benefits (and lowered state tax revenues), and a shift in income from state employees to profit out-of-state corporations.</p> <p>Therefore, I propose is that the Access Plan recommend that VRI be put on hold until every effort has been made to use the current interpreter workforce, which includes independent contractors, to interpret in family courts, UD courts, small claims courts, civil courts and mediations. To date, there have been no meetings that I am aware of among court administrators, bench officers and court interpreters to see if some civil proceedings can be covered by assigned interpreters or with floaters.</p>	
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	<p>I am submitting an article about the experience of courts in the UK after they outsourced interpreting services to a private corporation. It is titled, "Lost in privatisation: Capita, court interpreting services and fair trial rights (http://www.irr.org.uk/news/lost-in-privatisation-capita-court-interpreting-services-and-fair-trial-rights/)</p>	<p>The JWG has reviewed relevant literature, including the provided article, and finds the Plan adequately addresses the reported concerns. The purpose and intent of the Language Access Plan is to provide a wide array of options to benefit LEP court users, including use of in-person qualified court interpreters along with the appropriate use of remote technology with qualified</p>

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	<p>This move resulted in costly delays in proceedings, defendants remaining in jail just because they hadn't been able to obtain interpreters for them, and the use of less qualified interpreters by the private contractor. If California courts try to replace interpreters with VRI, the results will be even worse.</p> <p>[*Article text was submitted by commentator. Full text of article can be accessed at the link provided above by commentator.*]</p>	<p>court interpreters, to help expand language access, maintain high quality, and increase efficiency. Plan language does not replace interpreters with technology; it allows the same qualified interpreters, and more additional qualified interpreters, to provide their services through a different delivery mechanism.</p>
<p>California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)</p>	<ul style="list-style-type: none"> • Guidelines for the use of remote interpreting are important. The Commission supports the use of remote interpreting as one means to ensure language access, and it also supports the development of strong guidelines regarding the factors to be considered in determining when to use remote interpreting. Therefore, the Commission supports Recommendation 12, “(r)emote interpreting in the courtroom should be used only after the court has considered, at a minimum, the specific factors set forth in Appendix B.” Appendix B incorporates Appendix D, and together they list multiple factors and circumstances to be considered in balancing the need to use court resources efficiently and conveniently against the need to ensure attorney client confidentiality and support effective interpretation. 	<p>No response required.</p>
<p>ACLU of California and Other Community Organizations (Position = AM)</p>	<p>Considering the above concerns [*Note: ACLU narrative analysis provided in pages 1-3 of their letter is not included here*] , we provide the following recommendations:</p> <ol style="list-style-type: none"> 1. VRI should not be implemented without statewide and enforceable standards in place to protect the integrity of the judicial process and the rights of all 	<p>The JWG specifically reviewed the reference materials cited by the ACLU and did not find the actual holding of <i>Menchaca</i> to discourage remote interpreting. Similarly other cited materials discouraged the wholesale replacement of in-person hearings with hearings conducted remotely and did not address remote interpreting at all. While the JWG shares the ACLU’s</p>

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	<p>parties. We urge the Judicial Council to adopt clear and enforceable rules on VRI to safeguard LEP rights as part of the language access plan. Standards for VRI must take into account the inherent limitations of video-mediated communications, set technological minimums, and ensure that the use of in-person interpreters is prioritized, as is already the case in other standards that have been adopted.[FN] Such standards should be established through a process that involves careful study of existing research as well as input from a broad array of stakeholders, and provides for testing and pilot programs to evaluate the success of implementation.</p> <p>2. The Judicial Council should adopt rules and budget policies to ensure that individual courts do not implement VRI before a statewide plan can be finalized. We note that although the Judicial Council is currently developing a language access plan for California that could address the use of VRI, and has created mechanisms for public input, individual courts are already forging ahead with their own plans and adopting their own practices for implementing VRI before the statewide plan is even finalized.</p> <p>3. No assumption should be made that VRI is the one-stop solution to providing interpretation services. We are encouraged by current efforts to adopt a statewide language access plan and to expand interpreter services to include all civil proceedings. We warn, however, that use of VRI is not an appropriate solution for expansion of interpreter services in most cases. Overreliance on VRI could create a two-tier system of justice, with second-rate access and compromised due process rights for LEP populations.</p>	<p>interest in assuring due process for court users, it continues to believe remote interpreting will allow increased language access and better access to the most qualified interpreters while assuring due process. The Plan does not suggest VRI as a one-stop solution to providing language access services, but rather part of a complex network of language services to expand access to interpreters, especially in cases where there would be no interpreter in the absence of VRI.</p> <p>To further clarify this commitment to due process, the JWG has included language which makes clear that any courtroom interpretation provided remotely must allow for full and meaningful access to the proceeding.</p> <p>The JWG has modified plan language to require consideration of the factors outlined in Appendix B. (i.e. now reads “must” and not “should”). Additionally Recommendation No. 14 has been added in order to have the Implementation Task Force establish specific minimum technology standards for remote interpreting when they are able.</p> <p>The JWG believes that the recommendations in the plan related to remote interpreting, together with the list of prerequisites, factors to be considered in every event and interim descriptive guidelines in Appendix B, along with the incorporation of Appendix C, and on an interim basis, Appendix D provides clear statewide standards.</p> <p>Further, the JWG believes that courts should continue to explore opportunities for expanding language access and do not need to wait for the adoption of the plan or for the</p>

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	<p>In sum, we oppose expanding the use of VRI in California courts before the language access plan is completed and without standards and rules that are based on validated research and that maximize access to justice and protect due process, and—except in rare situations where VRI is the best alternative to having no certified interpreter—we specifically object to the implementation of VRI in the Fresno Superior Court and other Region 3 courts given the reported technological shortcomings in their current equipment and capacity. Given the serious risks to the integrity of communications, accuracy and fairness, VRI should not be pursued or justified as a cost-cutting opportunity. Rather, it should be implemented to enhance and expand language access to ancillary services outside the courtroom. Its use for court proceedings should be restricted until such time as the courts have completed a thorough, realistic analysis of its true costs, including its impacts on civil liberties and the integrity of the judicial process.</p>	<p>implementation of any related pilots. When the plan is adopted, and any related pilots are conducted early-adopter courts will be in an excellent position to incorporate identified best practices.</p>
<p>California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)</p>	<p>SCDLS agrees with Recommendation 11 that the use of in-person interpreters must be the preferred method of interpretation in court proceedings and court-ordered/court-operated events. While video interpreting may be more reliable than telephone interpreting, neither of these two methods should be used in most courtroom proceedings in the absence of exigent circumstances and/or without further evaluation of these modes of interpretation in courtroom proceedings or other court-connected proceedings, such as mediations. Before investing in video interpreting uniformly throughout the state, a pilot program could be developed in courts both in the urban and rural setting. The plan appropriately points out that the quality of interpreter services is critical to providing meaningful access to LEP court users, and through Goal VIII addresses the development of an evaluative and complaint</p>	<p>The JWG has included additional language in the plan describing the American Sign Language Interpreting pilot which took place in California’s courts and helped establish that remote interpretation can be an effective method of providing full and meaningful language access to courtroom proceedings for those who do not speak, (hear), or understand spoken English. While the JWG agrees that additional evaluation could be valuable, it believes that courts should continue to explore opportunities for expanding language access and do not need to wait for the adoption of the plan or for the implementation of any related pilots. When the plan is adopted, and any related pilots are conducted early-adopter courts will be in an excellent position to incorporate identified best practices.</p>

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	process for all aspects of language access, including interpreter quality.	
California Federation of Interpreters, by Ariel Torrone, President (Position = AM)	<p>[*Note: excerpts follow*] We urge the working group to include strong recommendations in the LAP to ensure that VRI use is approached responsibly, with strict limitations that clearly define appropriate use. This is absolutely necessary to avoid adverse impacts on LEP court users and on the public perception of the judiciary that will result if VRI is implemented irresponsibly, as is already happening in Region 3.</p> <p>... Even the best equipment and conferencing software available to date is inadequate in a courtroom for all but the most basic and limited communications, and using in-person, qualified interpreters is the best option to protect due process and civil liberties for any court proceeding. Because of this, we propose strictly limiting VRI to situations where no in-person interpreter is available such as for rare languages and, in those limited instances, to allow VRI use only for short, non-evidentiary proceedings, such as initial appearances or bail review hearings. We also propose that VRI (with high-quality equipment) is appropriate for out-of-court matters such as in self-help centers or one-on-one conversations, situations where interpreter services can be expanded without compromising the quality of access and scope of services that are so critical in courtroom proceedings.</p> <p>VRI proceedings will provide second-rate services to LEP communities and compromise the interpreter’s ability to provide meaningful access, as well as our ability to provide the speed and scope of services judges have come to rely on from skilled in-person interpreters.</p>	<p>Please see response to Diana Barahona, the ACLU and California State Bar’s Standing Committee on the Delivery of Legal Services.</p> <p>With the standards and guidelines in the plan and the inclusion of language requiring full and meaningful access when interpretation is provided remotely, the JWG specifically disagrees that remote interpreting provides second rate services to LEP court users.</p> <p>While there are disagreements with this assertion about the quality of VRI in Region 3, the JWG is not in a position to provide region specific recommendations and is instead moving forward with a statewide language access plan.</p>

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	<p>VRI proceedings cannot be conducted in simultaneous mode; only consecutive mode is feasible with turn taking and pauses for interpretation. This alone, without considering technical logistics and challenges, will double the time it takes to process cases.</p> <p>Providing language access in the legal setting is a highly specialized area of professional interpreting practice, and must be handled with great care given the fundamental rights at stake for LEP communities.</p> <p>The purpose of the LAP is to make language access practices in state courts consistent with Title VI of the Civil Rights Act of 1964 and associated regulations that prohibit discrimination based on national origin. We urge you to include a recommendation in the LAP that clear, statewide rules be adopted to appropriately limit VRI use, and that these include an unambiguous preference and priority for the use of in-person interpreters.</p> <p>The VRI experiment in Region 3 demonstrates that local discretion is not an effective way to approach language access. It is irresponsible to implement VRI in this manner, and before statewide rules and standards are adopted. The LAP should address this with recommendations that carefully restrict VRI use and safeguard against misuse that will compromise the rights of LEP communities.</p>	
Indigenous Language Interpreters and Community Organizations (Position = AM)	<p>Recommendation 11. The Spanish translation of this recommendation states that “courts may consider the use of remote interpreting where it is appropriate or advantageous for a particular proceeding.” However, the English version does not contain the words “or advantageous.” The words “or advantageous” should <u>not</u> be included in the final Plan, since</p>	Recommendation No. 12 (former No.11) has been revised. The word “advantageous” is no longer included.

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	allowing courts to use remote interpreting when “advantageous” would allow for too much freedom to use technology when in-person interpreting would be far superior.	
Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Recommendation 11 (page 39) – We support the Working Group’s recommendations for use of technology to expand language access. In particular, we wish to support your well crafted proposal to expand access through technology while maintaining in-person language services where vitally important.	No response required.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 11. Preference for in-person interpreters. See CFI comments on VRI in our LAP Public comments (pp. 10-13). Any use of remote interpreting in court proceedings must be carefully and strictly limited to ensure its use does not compromise LEP rights.</p> <p>This recommendation should be amended to reflect a strict reference and priority for use of in-person interpreters in court proceedings. The phrase, "... but courts may consider the use of remote interpreting where it is appropriate and advantageous for a particular proceeding" is vague; it is unclear what "appropriate and advantageous" means. This phrase creates a loophole you can drive a truck through, rendering the preference for in-person interpreters meaningless.</p> <p>Suggestion for revised recommendation:</p> <p><i>The use of in-person, certified and registered court interpreters is preferred for court proceedings and court-ordered/court-operated events. ,but courts may consider the use of remote interpreting where it is appropriate and advantageous for a particular proceeding.</i></p>	Recommendation No. 12 (former No. 11) has been revised.

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	The following recommendations (12 & 13) and Appendix B address the use of remote interpreting and it is thus unnecessary to include the language that is stricken above.	
California Rural Legal Assistance, Inc. (Position = AM)	<p>Recommendations 11 and 12: Use of remote interpreting in judicial proceedings. We cautiously support the use of remote interpreting (RI) technology in judicial proceedings, particularly when it is impossible to find a qualified interpreter able to attend proceedings in person. An LEP individual would benefit from the use of a qualified interpreter through RI technology if – as may frequently be the case for underserved languages – the alternative is having no interpreter at all or excessively delaying proceedings until an in-person interpreter can be provided.</p> <p>Our support for the use of RI comes with reservations, however, as we have heard comments from indigenous language speakers and indigenous interpreters that some indigenous individuals’ cultural background and lack of familiarity with technology would render RI a far less effective means of communication for them than for an average LEP court user. Nonetheless, our current position is that RI, judiciously employed, could be a powerful tool in ensuring language access for speakers of indigenous and other underserved languages.</p> <p>The Plan should use clearer language regarding when RI is allowable, specifying that RI should only be used if an in-person interpreter is not available. The Plan could call for the creation and use of a form or list of steps similar the INT-120 form, to be used prior to employing RI, to certify that a qualified in-person interpreter is unavailable. Alternatively, the Plan could incorporate those steps into Appendix B, as</p>	Recommendations No. 12 (former No. 11) and No. 13 (former No. 12) and the appendices they incorporate have been modified to provide more clarity related to standards and prerequisites which must be met along with factors which must be considered when a court provides interpreting services remotely.

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	additional necessary factors and considerations for RI.	
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 12. Remote interpreting in indigenous languages presents many problems because it does not allow for a full in-person interaction between the interpreter and the individual. This interaction contains important cultural information that cannot easily be conveyed by video, and is impossible to convey by telephone. It is <u>always</u> preferable to have an in-person interpreter for an indigenous language speaker. However, we understand that there are currently not enough qualified indigenous language interpreters to meet the needs of all indigenous language court users. We recommend that the Plan require courts only use remote interpreting technology once a diligent search for an in-person interpreter has failed.	The plan requires full and meaningful access for the court user. In the case of certain LEP individuals, that may mean that remote interpreting is more, or less appropriate, or should be more carefully restricted to certain types of proceedings, such as continuances. As CRLA indicated in its comments, there will be times and languages for which no interpreter exists anywhere in the state, or even the country, and remote interpreting may be the best, and only way, to provide access for a court user.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 12. Rather than stating that courts should “consider” factors in Appendix B before using remote interpreting in the courtroom, this recommendation should refer courts to required factors that must be met before using remote interpreting. Appendix B should provide required steps and circumstances that clearly define when VRI is and is not appropriate.	Recommendation No. 13 (former No. 12) has been revised.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 12*] The report and recommendations do not mention, and thus appear to intentionally ignore, the very successful experiences of video remote interpreting for American Sign Language in recent years. The use of VRI was piloted in several courts and, after demonstrating success, has expanded to many courts. Rather than throwing restrictions over a new technology, however reasonable the factors listed, the recommendation should encourage pilot programs to find out when it works best and when it does not.	The JWG has considered, extensively, the successes of VRI with American Sign Language which is ongoing in California’s courts and in fact has adapted many of the guidelines for VRI use from the ASL guidelines. The JWG has included additional language in the Plan describing the American Sign Language Interpreting pilot and which further established that remote interpretation can be an effective method of providing full and meaningful language access to courtroom proceedings for those who do not speak, (hear), or understand spoken English.

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California Rural Legal Assistance, Inc. (Position = AM)	Recommendation 13: Use of video, enhanced audio, and telephone interpreting. The Plan currently states that courts should “strive to provide” video plus enhanced audio interpretation as opposed to relying on telephonic interpretation. Because of the near unanimous complaints we have heard among indigenous language interpreters and indigenous community members regarding the limited effectiveness of interpretation by telephone, we recommend that the Plan adopt an even stronger policy against this practice. The words “strive to” should be eliminated from Recommendation 13 so that the Plan requires the use of video, used in conjunction with enhanced audio equipment, whenever RI is provided.	With respect to Recommendation No. 15 (former No. 13) The JWG considered language around the use of video vs. audio remote interpreting, and found it critical to allow courts flexibility in dealing with technological limitations which may exist in their area, or in the area of the interpreter providing service.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 13. This recommendation should reference another Appendix to include mandatory minimum technology that must be used for courtroom interpretation.	Interim descriptive technology related guidelines are provided, and incorporated at Appendix D. A new Recommendation No. 14 requires the Implementation Task Force to establish minimum technology requirements.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 13*] This is an example of the perfect pushing aside the adequate. The recommendation should instead recommend pilot projects or other efforts to find out when use of audio is adequate and when it is not. See, for example, the recent project funded by SJI for NCSC and CPPS to establish a national VRI service. It is worthy to note that many lawyers are regularly opting for audio appearances at law and motion hearings or other proceedings. The decision to do so reflects a balancing of effectiveness and cost that is equally relevant to interpreting. As the quality of video conferencing improves, there are now options for video appearances. It will be relevant to observe which form is preferred by litigants in which types of proceedings.	A new Recommendation, No. 16, has been added to the plan proposing a Judicial Council pilot project in conjunction with the Tactical Plan for Technology 2014-2016. Additionally, language has been included clarifying that courts need not wait for pilot results in order to implement remote interpreting.

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California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 14. CFI is open to the idea of having a centralized hub where certified and registered staff interpreters are available to courts statewide to provide language access using remote interpreting, provided adequate equipment is used, and provided that VRI is appropriately limited for events outside of courtrooms and in short, non-complex proceedings only where competent language access would otherwise be impossible.	The JWG believes that the Implementation Task Force, or any entity put in charge of running any of the pilots suggested in this plan, should determine the parameters and design of each relevant pilot, including what kinds of courtroom or non-courtroom language access might be achieved through a centralized pool of interpreters. Note that former Recommendation No. 14 is now No. 17.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 14*] This may be easier to implement or pilot with less union resistance if we started with lower frequency languages that are intermittent employees or independent contractors and not regular employees. For example, if a county in Northern California wanted a Russian interpreter and the only way they could get one was to fly them up, the Russian interpreter could go to their local courthouse and appear in Northern California via VRI – thus saving the state travel costs. Also, the appearance may end up being only ½ day pay instead of 1 day +. Alternatively, it could be set up that if the court could not get a certified/registered interpreter, then VRI could be used. This demonstrates to the union that we are “protecting” their employees by not using non-certified, non-registered interpreters to provide the services.	The recommendation has been revised to remove the reference to high frequency languages. Note that former Recommendation No. 14 is now No. 17.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 15*] Many courts may already have short videos for orientation in languages for traffic first appearance/arraignments or some other proceedings. There was a Self-Help Strategic Planning meeting at the Judicial Branch in 2012. This was one of the issues raised. The Judicial Branch website has increased the number of general	Recommendation No. 18 (former No. 15) and the issue description providing background to this recommendation have been revised to indicate that these videos already exist and efforts should be continued.

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	<p>legal information videos which we can post on our website, but not yet in other languages.</p> <p>How to:</p> <p>Mediation videos</p> <p>Traffic arraignment video</p> <p>Small claims video</p> <p>Knowledge innovation</p>	
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendations 16-23—Add recommendation in this section.</p> <p>This section pertains to considerations when appointing an interpreter. Although the discussion preceding these recommendations briefly mentions good cause findings and procedures, the need to comply with these steps is not reflected in the recommendations.</p> <p>The same good cause and qualification rules that apply in criminal proceedings should be adopted in civil proceedings, as is suggested by recommendations 9, 70 and 71. We recommend adding a recommendation at the beginning of this section to clarify conditions that must be met before appointing a non-certified or non-registered interpreter.</p> <p>Suggested additional recommendation to precede recommendation 16:</p> <p>Courts will only appoint a non-certified, non-registered interpreter to interpret in a court proceedings when:</p> <ol style="list-style-type: none"> 1) no certified or registered interpreter is available; 2) a finding of good cause is made on the record and other diligent search and qualification procedures have been followed; and 3) the judge in the proceeding determines the individual is 	<p>Note that these recommendations have been renumbered and reorganized. Former Recommendation No. 16 is now No. 22; former Recommendation No. 17 has been deleted; former Recommendation No. 18 is now No. 23; former Recommendation No. 19 is now No. 24; former Recommendation No. 20 is now No. 19; former Recommendation No. 21 is now No. 20; former Recommendation No. 22 has been deleted and combined with Recommendation No. 50; former Recommendation No. 23 is now No. 21.</p> <p>Re. Addition of New Recommendation: The suggested recommendation is already addressed by Recommendations No. 9, 19 (former No. 20), and 70 (former No. 71).</p>

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	provisionally qualified.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 16. This recommendation should be reworded to state this more clearly as a prohibition. Replace, “must avoid appointing” to “shall not appoint.”	The JWG agrees and the recommendation (now No. 22) has been revised.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>Recommendation 17. This recommendation is highly problematic for a number of reasons.</p> <p>a. It is highly unlikely that family members or friends have the requisite skills, knowledge and proficiency in two languages to be qualified to interpret in any court proceeding.</p> <p>b. Family members and friends have a conflict of interest and cannot be relied upon to be impartial. Using them as interpreters could impact a judge’s ability to determine the facts or fairly adjudicate a matter.</p> <p>c. The same reasoning for not appointing opposing parties and others cited in recommendation 16 applies to family members and friends.</p> <p>d. Using family members and friends to interpret violates the regional MOU provisions that only bargaining unit members (certified and registered staff interpreters) may perform bargaining unit work.</p> <p>We recommend revising this recommendation to prohibit use of an LEP court user’s family members or friends to interpret in court proceedings, as follows:</p> <p><i>17. Family members or friends of the LEP court user will not be appointed to interpret for courtroom proceedings. This recommendation does not prohibit family members and friends of an LEP court user from providing informal assistance in</i></p>	Former Recommendation No. 17 has been deleted.

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	<i>order to determine the language needed or to inform the court user of a continuance or other basic instructions related to their matter.</i>	
41 Legal Services and Community Organizations (Position = AM)	17. [*Proposed Language*] Family members and friends of the LEP court user may be appointed for courtroom proceedings <u>only if</u> : a) they meet the provisional qualification requirements, (b) an admonition regarding real or perceived conflicts of interest is provided, (c) the court informs the litigants that language services and interpreters are available at no cost to the litigant, and (d) all parties knowingly and voluntarily consent to that person as the interpreter.	Former Recommendation No. 17 has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 17*] In light of the recommendation regarding qualification, it would be useful to say all requests must go through the interpreter office, and provisional qualifications must be prepared for review by the office. A non-interpreter should be used only for a continuance in order to obtain a certified/registered/provisionally qualified interpreter. Note: There may need to be an exception for Protective Order cases. What admonition? For consistency, should one be drafted for use by all judicial officers? Should this be done at the local or state level?	Former Recommendation No. 17 has been deleted.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 18. We agree with the recommendation to prohibit the use of minors to interpret for their LEP family members.	Recommendation No. 23 (former No. 18) has been revised to clarify no minors, not just minor children of the LEP court users, can be appointed to interpret in court proceedings or court-ordered, court-operated events.
41 Legal Services and Community Organizations (Position = AM)	Regarding Recommendation 18, courts must be instructed that minors, regardless of their relation to the LEP litigant, should not be used as interpreters in courtroom proceedings	The JWG agrees. Recommendation No. 23 (former No. 18) has been revised to clarify that no minors, not just minor children of the LEP court users, can be appointed

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	<p>under <i>any</i> circumstances. The use of a minor as an interpreter exacerbates concerns regarding competency, confidentiality, and conflicts of interest ...</p> <p>18. [*Proposed Language*] Minors will not be appointed to interpret in neither courtroom proceeding nor court-appointed, court-operated or court-managed proceeding.</p>	to interpret in court proceedings or court-ordered, court-operated events.
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 18*] Need judicial education/ethics training on proper use of interpreters at a state level. Currently, new judges receive some information about working with interpreters at new judge orientation. Recommend that refresher training be included as part of the ethics training.</p>	Recommendation No. 50 and Goal 6 generally, address the need for and content of ongoing judicial branch training.
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendation 19. This recommendation appears to give significant and inappropriate discretion to courts to use of bilingual staff to interpret in courtroom proceedings. This is contrary to the overall goals of the LAP, and contrary to other recommendations. As written, this recommendation will create confusion and blur lines that need to be clear with respect to who is qualified and competent to interpret in court proceedings. This recommendation is problematic for the following reasons:</p> <p>a. Bilingual staff are not tested for the requisite skills, knowledge and proficiency in two languages to interpret in court proceedings (unless they are also certified or registered court interpreters).</p> <p>b. As acknowledged in the discussion of this section, and reported in public hearings, use of bilingual staff presents problems related to impartiality, and can become a convenient substitute for hiring needed, fully qualified interpreters.</p> <p>c. Using bilingual staff in court proceedings violates the</p>	The JWG agrees. Recommendation No. 24 (former No.19) has been revised to include the suggested “exigent circumstances” language. The requested addition of good cause finding was not added because it is already part of the provisional qualification requirements.

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	<p>regional MOUs that provide only bargaining unit members (certified and registered staff interpreters) may perform bargaining unit work and that contracting out will follow G.C. 71802. It also may violate G.C. 71802(d) of the Interpreter Act that requires courts to follow good cause and qualification rules adopted pursuant to G.C. 68561 before appointing any non-certified, or non-registered interpreters.</p> <p>We recommend revision of this recommendation as follows:</p> <p><i>19. Bilingual staff will not be appointed to interpret in courtroom proceedings except in extraordinary circumstances; if the court does appoint bilingual staff, the bilingual staff person must meet all the provisional qualification requirements, and the court must find good cause in accordance with Rule of Court 2.893.</i></p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[* Recommendation No. 19*] Agreed. It should be avoided.</p>	<p>No response required.</p>
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendation 20. This recommendation should be reviewed and revised to reference AB2370 (Chau) which was signed by the governor and will become law in January 2015.</p>	<p>The JWG agrees and Recommendation No. 19 (former No. 20) has been revised to reference amended Government Code section 68561, specifically subsections (g) and (f), effective January 1, 2015.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 20*] Recommend each trial court centralize process of administering and filing the interpreter oath with the interpreter office. Recommend sanctions for those who misrepresent their qualifications. Interpreters who have been certified/registered in multiple languages currently do not have to renew in all languages. For example a certified Spanish interpreter who was once registered in Italian will continue to be registered in both languages. Recommend that the Judicial</p>	<p>Recommendation No. 19 (former No. 20) has been revised to reference amended Government Code section 68561, specifically subsections (g) and (f), effective January 1, 2015.</p>

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	Council implement a renewal process that requires interpreters to document interpretations in all certified/registered languages, and requires the interpreter to list the languages they are renewing the certification/registration for.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 21*] Recommend implementing better automation to manage regional coordination.	The detail of how to expand regional coordination and improve efficiencies is more appropriate for the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Recommendation 22 – Need clarity regarding when the court should provide interpreters and when the justice partners have responsibility to provide the interpreter.	Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 22. A portion of this recommendation needs clarification or examples. As written, the intent of the recommendation is unclear: [...] and identifying situations where justice partners have the responsibility or capacity to provide additional certified or registered interpreters for their clients or witnesses.	Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 22*] The interpreter office should make every effort to utilize team interpreting for lengthy proceedings where the nature of the testimony or extent of interpreting needed suggests interpreting will be even more difficult than usual. It is not clear team interpreting is always necessary, therefore some effort should be made to identify when it may not be necessary and when it should be used. Recommend education and stricter guidelines from the Judicial Council regarding the best practice of team interpreting. A culture of resistance to this practice remains prevalent among some interpreters and judicial officers. Recommend additional education about the legal requirement	Former Recommendation No. 22 has been deleted and merged into Recommendation 50, addressing judicial branch training.

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	on the use of interpreters where multiple parties are involved.	
41 Legal Services and Community Organizations (Position = AM)	<p>Regarding Recommendations 22 and 23, it is essential that the LAP should make explicit that justice partners are not responsible for providing interpretation or language services to litigants. This obligation lies with the courts under both state and federal law. It is, as we articulated above, a key, core court function. On the other hand, we do recognize that there are instances where justice partners participate in aspects of coordination, recruitment, training, and identification of appropriate interpreters and translation services.</p> <p>We suggest that the subcategories of this Goal be reorganized. We recommend the following subcategories:</p> <ul style="list-style-type: none"> a) Interpreters in Courtroom Proceedings (including the use of technology); b) Training Regarding the Appointment of Interpreters; c) Recommended Processes for Providing Interpreters. 	<p>Recommendations Nos. 22 and 23: Former Recommendation No. 22 has been deleted and merged into Recommendation No. 50, addressing judicial branch training. As to Recommendation No. 21 (former No. 23), the JWG agrees and the recommendation has been revised and reference to justice partners deleted.</p> <p>Reorganization of the subcategories: The recommendations have been reorganized to more adequately follow the process for appointment of interpreters.</p>
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 23. See 20 above. This section again references “justice partners who will be providing interpreters.” This is unclear and also raises questions about compliance with the Interpreter Act.	Recommendation No. 21 (former No. 23) has been revised and reference to justice partners deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 23*] CRIS regularly reviews interpreter use and makes recommendations/modifications on staffing to maximize use of interpreters. Not sure what justice partner may be providing “interpreters.” Most do not have certified/registered staff – so does this refer to bilingual staff or some other level of interpreter?	Recommendation No. 21 (former No. 23) has been revised and reference to justice partners deleted.

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Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Bi-lingual staff discussion (page 51 [*p. 48 of 7/29/14 draft*]) – The narrative of the report makes a statement that bi-lingual staff should receive a higher salary. We would suggest that this language be softened to encourage the evaluation of whether staff in a particular position should receive higher pay if they are bi-lingual.	Recommendation No. 47 establishes the minimum proficiency level that should be required before staff are considered to be bilingual, and therefore eligible (at the court’s discretion) for a possible bilingual premium if they meet their court’s requirements for official classification as bilingual staff.
41 Legal Services and Community Organizations (Position = AM)	All recommendations in Goal III should be moved to Phase I. [*See below for suggested changes for each individual recommendation.*]	The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will require a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1. In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in the plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 24. We strongly support the designation of a language access coordinator for each county court. It is essential that every court have a person in charge of coordinating language services. That person should be trained in the unique needs of indigenous language speakers, including the diversity of indigenous languages and how to identify the correct interpreter.	Training issues for all court staff, including language access coordinators, are addressed under Goal 6.
41 Legal Services and Community Organizations	24. [* Proposed Language*] The court in each county will designate a person that serves as a language access	While every court must identify a language access coordinator, the JWG does not agree that every court

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(Position = AM)	coordinator for court staff, judicial officers, and recipients of the court’s services. The person must be able to describe the court’s language access policy and know where to access the court’s multilingual written materials to disseminate them as needed. This person must also be well versed in how to use language line and other interpretation mechanisms, and in how to help facilitate an interpreter for court staff and judicial officers. This person will be designated the point person to help court staff provide interpretive services to LEP litigants at all points of contact, both inside and outside courtroom proceedings.	must define the role in the same way. However, recommendation No. 25 (former No. 24) has been revised to include additional detail.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 24*] Recommend contact information to the designated language access office be clearly posted at public facing points of contact. It is unreasonable to think there is one person who will know every service a court provides in a large court with multiple locations. Identifying a person in each branch court, and one who knows who to ask about a service, would meet the need implied by this recommendation.	It is the intent of the JWG that local courts have flexibility in determining how to best implement this recommendation and whether one centralized office is sufficient, or whether, in multi-location courts, additional designated staff is necessary.
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	As acknowledged by the plan, the needs of LEP litigants extend to all points of contact. We suggest that for the sake of uniformity, Recommendation 25 be modified to give more direction to courts about which points of contact are “critical” for LEP users. For example, critical points of contact should include clerk’s offices, self-help centers, family law facilitator’s offices, and areas where information on fee waivers would be accessed. The development of written protocols or procedures by all courts will help ensure LEP litigants have language access (Recommendation 28) at all points of contact. Also, SCDLS supports the plan’s encouragement of the hiring of bilingual staff.	The JWG appreciates the suggestion and determined that additional level of detail regarding what constitutes critical points of contact for LEP court users is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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41 Legal Services and Community Organizations (Position = AM)	25. [*Proposed Language*] Courts will have qualified bilingual staff available at the clerk’s office, filing window, information counters, intake or filing offices, cashiers, records rooms, <i>pro se</i> clinics, family law facilitator and other self help centers, and other public contact locations. At least one language spoken by the bilingual staff at each public contact location will be one of the top five languages spoken in the court’s community. The minimum level of qualification for the designation of bilingual staff member should be at least Level 3 on the Interagency Language Roundtable Skill Level descriptions for Listening and Speaking. Bilingual staff members designated for use as interpreters should be able to interpret at a skill level of at least Level 3 on the ILR scale for interpretation performance. As defined on the ILR website, a Level 3 interpreter is “[a]ble to interpret consistently in the mode (simultaneous, consecutive, and sight) required by the setting, provide renditions of informal as well as some colloquial and formal speech with adequate accuracy, and normally meet unpredictable complications successfully. Can convey many nuances, cultural allusions, and idioms, though expression may not always reflect target language conventions. Adequate delivery, with pleasant voice quality. Hesitations, repetitions or corrections may be noticeable but do not hinder successful communication of the message. Can handle some specialized subject matter with preparation. Performance reflects high standards of professional conduct and ethics.”	<p>The level of detail suggested in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>With regard to the minimum level of qualification for the designation of bilingual staff member, the JWG believes that the minimum level as currently addressed in the plan under Recommendation No. 47 is appropriate. The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact may require a higher level of proficiency than the minimum recommended level. The JWG determined that additional level of detail regarding what constitutes critical points of contact for LEP court users, and the corresponding appropriate qualifications for court staff, is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>
Superior Court of Orange County,	[*Recommendation No. 25*] Recommend that the language	The JWG recognizes the challenges that the

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Goal III: Provide Language Access Services at all Points of Contact Outside Judicial Proceedings		
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Alan Carlson, Court Executive Officer (Position = AM)	access office designee conduct a thorough walk-through of points of contact to document current practice and make recommendations as needed. It is obviously ideal to have bilingual staff at key points of contact. However, this is not practical for most courts and for the less frequently spoken languages. In a county with multiple common languages, either staff would have to be multi-lingual, or there would need to be several staff, each bilingual in a different language. Obviously, this is not possible in most courts, particularly in small courts. Other options need to be identified, either in the recommendation and called for as part of implementation.	commentator identifies, and Recommendation No. 26 (former No. 25) states that qualified bilingual staff should be provided whenever possible.
41 Legal Services and Community Organizations (Position = AM)	26. [*Proposed Language*] All court staff that engage with the public shall be responsible for identifying the need for language services. At the point of contact, the court staff shall notify the court user of their right to an interpreter and also provide him/her with brochures, instructions, or other information in the appropriate language. Court staff should also have access to language assistance tools, such as translated materials and resources, as well as multi-language glossaries. If a court user speaks a language other than English and the court staff does not speak that language, the court staff will use a language identification card to determine the court user’s primary language and particular dialect, and any other languages she/he may speak fluently. If the court staff is not able to determine the court user’s primary language, the court staff will use a telephonic interpreter service to identify the court user’s language. In each filing window and courtroom the court must	The level of detail provided in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal III: Provide Language Access Services at all Points of Contact Outside Judicial Proceedings		
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	<p>prominently display “I Speak” posters. This display will give court staff the ability to easily identify the LEP individual’s language. In addition, at each location, brochures explaining language services, which list dozens of other languages, must be available allowing the LEP individual to point to their language to identify it for the court staff.</p> <p>The court should have “I Speak” cards readily available for LEP litigants to pick up at the clerk’s office. Handing them out to litigants will ensure that no matter where in the courthouse a litigant is, s/he will be able to inform court staff of the language the litigant speaks</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 26*] In the interest of consistency and not ‘reinventing the wheel,’ the recommendation should direct the Judicial Council to develop “I speak” cards for those languages for which they do not already exist.</p>	<p>I-Speak cards exist in a large number of languages. As resources permit, the JWG envisions that the Judicial Council, per new Recommendation No. 37, will in fact provide more I-Speak card translations for local court use.</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p>Recommendation 27. We support the recruitment of bilingual staff persons to work in the courts. However, the courts should ensure that bilingual staff, particularly indigenous language speakers, are not used to interpret in the courtroom unless they are also trained and meet the necessary requirements to serve as interpreters. Indigenous language speaking staff at other agencies are often called on to serve as interpreters even when that is not a part of their job description and they have not received adequate training to interpret. This is something that the courts must avoid.</p>	<p>Recommendation No. 28 (former No. 27) addresses bilingual staff only, in their capacity as non-interpreter court staff, to provide assistance to LEP court users in their preferred language. The requirements for provisional qualification of interpreters where no certified or registered interpreter is available, continue apply to interpreted proceedings or events.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>27. [*Proposed Language*] Moving forward, the court should require bilingual ability for future court hiring for all positions involving public contact. These positions should require proficiency in languages commensurate with the</p>	<p>At this time, the JWG does not deem it feasible, on a statewide level, to require courts to hire bilingual staff for all positions involving public contact.</p>

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	<p>needs of the local communities.</p> <p>Courts should conduct outreach to educational providers in the community, such as local high schools, community colleges, and universities, to promote career opportunities available to bilingual individuals in the courts and thereby increase the bilingual applicant pool.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 27*] See issues/questions under recommendation #47 Above [*see below*]. This recommendation, and others below, seek to impose upon trial courts an obligation to promote career opportunities and develop education associated with interpreting. While there is obviously a need to increase the number of people who can provide language assistance, it is not clear that it is an appropriate role of the court to go out and develop solutions to the shortage. The courts are not expected to do that for other professions, for example, attorneys or court reporters, so it is not clear they should do so for interpreters. A more productive approach would be to ask the Judicial Council to engage with the education world to alert them to the need and provide assistance regarding programs. The recommendation implies that courts should solve the problem on their own.</p>	<p>The JWG feels strongly that courts have an important role to play in encouraging their community members to contribute to the court system, and to increase the pool of qualified professionals, from attorneys to court staff to court interpreters.</p> <p>Courts, including judicial officers, are involved in community events to promote the judicial branch, encourage attorneys to volunteer as judges pro tem or settlement conference judges, encourage pro bono, etc. They participate in law school or local and state bar activities, and others. These are all concerted efforts by the branch to improve the administration of and access to justice.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>Recommendation 28: Language services outside judicial proceedings when bilingual staff are not available.</p> <p>Recommendation 28 states that courts will develop protocols or procedures for providing language services outside judicial proceedings when bilingual staff persons are not available. This is an essential step for ensuring clerk’s office and self-help center access for indigenous language speakers, since as far as we know, no California court currently employs any bilingual indigenous language speaking staff. Recommendation 28 is currently placed in Phase II and should be moved to Phase I. Courts should start immediately outlining the procedures to be</p>	<p>The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are</p>

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	followed for providing outside-the-courtroom access to indigenous language speakers. There is no benefit to waiting until policies for placement of bilingual staff have been developed and implemented, since current bilingual staffing will not be of assistance to indigenous language speakers.	available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis. Note that former No. 28 is now Recommendation No. 29.
41 Legal Services and Community Organizations (Position = AM)	<p>Recommendation 28 should be moved from Phase II to Phase I. This is a critical item that cannot wait to be implemented. The court has acknowledged that there is not sufficient bilingual staff to accommodate the vast array of languages spoken by California’s LEP population. As such, having in place a protocol on what to do when a bilingual staff is unavailable is critical.</p> <p>28. [*Proposed Language*] Once court staff determines the LEP language and that LEP services are needed, the court must utilize the Department of Justice’s hierarchy of language services to provide interpretive services outside the courtroom setting. In accordance with this hierarchy:</p> <ul style="list-style-type: none"> - The first choice is always to use bilingual staff to provide services directly in the preferred language. - If bilingual staff is unavailable at a particular location, court staff from another location should be brought in to assist as a second choice. - While the court must strive to provide in person interpretation, the third choice is to use VRI to draw on interpreters from other courts. 	<p>Note that former No. 28 is now Recommendation No. 29.</p> <p>Move to Phase 1: The JWG disagrees. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p> <p>Proposed language: The level of detail provided in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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	<ul style="list-style-type: none"> - If all the options above are exhausted, the fourth choice is to use a <i>qualified</i> volunteer. - Finally, if all other options are unavailable, telephonic or language line service may be used as the last resort. The minimum level of qualification for the designation of telephonic interpreter should be at least Level 3 on the Interagency Language Roundtable Skill Level descriptions for Interpretation Performance. See description in Recommendation 25. 	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 28*] Recommend regular reminders and training for court staff.	Ongoing training of court staff is addressed in Recommendation No. 50. Note that former No. 28 is now Recommendation No. 29.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 29*] Recommend building stakeholder buy-in from all represented court staff.	The JWG agrees with the commentator and recommends that courts work with appropriate staff to discuss what resources and tools may be necessary to implement the recommendations contained in the Language Access Plan. Note that former No. 29 is now Recommendation No. 30.
41 Legal Services and Community Organizations (Position = AM)	30. [*Proposed Language*] Before implementing the use of remote interpreter services outside the courtroom through a pilot program, courts and the Judicial Council should develop a well-designed protocol, consistent with Recommendation 28, and all court staff should receive proper training. The pilot should be limited in scope and focused on a specific situation such as a self-help center, taking into consideration surrounding noise, limited space, and privacy issues.	Proposed language: The details of the pilot program recommended are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee. Timeline: The JWG disagrees with moving Recommendation No.

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	<p>Recommendation 30 should be moved to Phase I because it will help the court draw down the excess funding. This is key to securing more funding for future access to court services including language access services.</p>	<p>31 (former No. 30) to Phase 1. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Language Access Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 30*] This is a great idea. To the extent that the centralized bank of bilingual professionals are court employees (interpreters and bilingual staff) the court would optimize resources and reduce third party fee-for-service costs.</p>	<p>No response required.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>31. [*Proposed Language*] Before initiating an inter-court pilot to utilize technology for workshops, training, or information nights, courts must develop proper protocol and training for all court staff. The pilot should not expand to cover different court services until the program can be evaluated and revised to address issues that arise.</p> <p>Recommendation 31 should be moved to Phase I because it will help the court draw down the excess funding.</p>	<p>Proposed language: The details of the pilot program recommended are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Timeline: The JWG disagrees with moving Recommendation No. 31 (former No. 30) to Phase 1. Currently, 47 of the 75 recommendations in the Language Access Plan are included in Phase 1. Implementation of the Language</p>

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		<p>Access Plan will take a significant amount of time and resources, and, although the plan recognizes all recommendations are important to achieve comprehensive language access, it is unrealistic to overburden the courts in phase 1.</p> <p>In addition, as provided for in the description of the Plan’s timeline for phases, every recommendation in this plan should be put in place as soon as resources are available and necessary actions can be taken. Further, the plan allows for the Implementation Task Force to determine if the phase-in should be modified after further analysis.</p>
41 Legal Services and Community Organizations (Position = AM)	32. [*Proposed Language*] Courts must ensure that court-appointed professionals, such as psychologists, mediators, social workers, and guardians, can provide linguistically accessible services. As with court staff that engage with the public, courts should prioritize hiring professionals with bilingual ability and at a minimum use qualified interpreters so LEP litigants can properly access these services to the same degree as English speakers	The JWG has revised the language of Recommendation No. 33 (former No. 32).
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = AM)	[*Recommendation No. 32*] Not clear how this recommendation can feasibly be implemented. How are courts to ensure equivalent services? By audit? Self-report?	The JWG has revised the language of Recommendation No. 33 (former No. 32).
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 32*] Orange County does provide interpreters for psych evaluations in jail during normal work hours. If after-work hours or off-site, the evaluator is advised to hire their own interpreter.</p> <p>There have been instances where we have sent an interpreter off site or after hours – for example: When the case is in</p>	No response required.

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	<p>alternate defense and the court is paying all the fees.</p> <p>We get a lot of questions about this process as well. Recent examples include a father being evaluated during business hours, off site, with short notice. The evaluator requested a Vietnamese interpreter and one was sent.</p> <p>If a court interpreter is not provided, the evaluators sometimes have a hard time getting an interpreter. The agencies may request a full-day rate for a two hour interview. CRIS uses their best judgment in covering these requests.</p> <p>Contracting with bilingual professionals would be great, but I'm not sure it is feasible – especially with the variety of languages and the limited hours that many evaluators are available for court work.</p> <p>If CRIS is to supply interpreters during business hours to travel to an outside facility for an evaluation other than the jail, this would increase work for coordinators and more interpreters (and coordinators) could be needed. For example, the court may authorize an interpreter for any service needed (investigation, visitation or any participation in services).</p>	
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>Recommendation 33: Use of bilingual volunteers. We strongly oppose the adoption of Recommendation 33 because the use of volunteers to provide language services has a disproportionate negative effect on indigenous language speakers' access to adequate language services. Our work with indigenous interpreters and indigenous language speakers throughout California has revealed that many agencies rely heavily on "volunteer" indigenous interpreters who are most often high school students without adequate training. In addition to providing unreliable language service to indigenous</p>	<p>The JWG recognizes that volunteers are often untrained and unqualified to interpret, and that the use of unpaid interpreters can eliminate incentives for pursuit of the interpreting profession. However, the JWG is also aware that volunteers have been an invaluable resource for courts to provide services to ever-increasing numbers of court users, especially LEP court users, accessing the courts at a time when budget cuts have significantly impaired the ability of courts to meet the demand for services. Recommendation No. 34 (former No. 33) is not</p>

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	language speakers, this practice undermines the efforts of indigenous interpreters to make a career out of professional-level interpreting. If public institutions continue to make use of unpaid indigenous interpreters, there will be no incentive for those with the necessary language skills to invest in training, and the current dearth of qualified and available indigenous interpreters will continue. Paying indigenous language interpreters fair compensation to provide language services outside the courtroom will help support the development of an indigenous interpreting profession that can provide the same level of service that speakers of Spanish and other languages already receive.	intended for volunteer interpreters in the courtroom. It is meant to address the needs at court services such as self-help centers and information kiosks that can't be fully met with existing staff. Internships can also provide an invaluable experience and exposure for would-be interpreters, court staff, and attorneys.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 33. We do not support this recommendation and believe it should be removed from the Plan. Volunteers should not be relied on to provide language services. Indigenous language interpreters have long been treated by many agencies and service providers as “second class interpreters,” and they are paid little or nothing for their services. The vast majority of indigenous interpreters are unable to dedicate themselves to interpreting full time (and to investing in ongoing training) in part because they receive such little pay. Allowing courts the possibility of using volunteer interpreters will have a disproportionate effect on indigenous language speakers and interpreters, because it will interfere with efforts to professionalize indigenous interpreting and make it a viable career option. Courts should not be permitted to engage indigenous interpreters (or any interpreters) without providing them fair compensation.	See response above.
41 Legal Services and Community Organizations (Position = AM)	33. [*Proposed Language*] Courts should only utilize qualified bilingual volunteers when no other alternatives are available, such as bilingual staff in person, staff brought in from another location, or interpreters via	See response above. In addition, Recommendation No. 34 (former No. 33) provides for appropriate training and supervision of volunteers.

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	VRI. Before making use of any volunteers, courts must conduct careful screening/testing of qualifications and provide extensive training of potential volunteers.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 33*] Justice Corps volunteers and interns would be great but require that our court hire additional staff to run the program, including determining whether the volunteers are qualified. The recommendation assumes volunteers are available. It is unlikely they are available in sufficient numbers to have much impact on the total need. Moreover, it is unlikely the unions will agree to very extensive use of volunteers.	Recommendation No. 34 (former No. 33) merely proposes that courts should consider, where appropriate, the use of bilingual volunteers. Where a court does not have the resources to properly supervise and train volunteers, a supply of volunteers, or even a need for them, courts are not required to use volunteers.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 34*] If information is available on our website in different languages, then a separate language access kiosk is not necessary. As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above [*see below*].	Not all LEP court users have access to the internet and to information on the web. Additionally, many courts do not have information on their websites. Recommendation No. 35 (former No. 34) provides for pilot programs to explore a variety of information delivery mechanisms to reach LEP court users. The JWG agrees that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.
Superior Court of Placer County, Jake Chatters, Court Executive Officer (Position = AM)	Recommendation 35 (page 51) – The Working Group recommends providing information on language access services in the top five languages used in the County and any language that is spoke by more than 5% of the County. We would suggest rewording this recommendation to match the language used in Recommendations 39 and 42 (“court community’s top five languages or, if more appropriate, into any languages spoken by 5 percent or more of the population served by the	Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5. The JWG agrees, however, that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the

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	court. At the minimum, all such materials should be available in English and Spanish.”).	Implementation Task Force.
41 Legal Services and Community Organizations (Position = AM)	<p>35. [*Proposed Language*] Courts must provide notice of the availability of language access services and related language access policies at all points of contact with the court in English, the top five languages spoken in that court’s county, and, if applicable, in every other language spoken by either five percent or more of the county’s population or 500 persons or more in a specific courthouse’s service area.</p> <p>Courts must provide visible signage indicating the litigant’s right to language services. This should be placed in all public areas and in each courtroom. Courts must post signs throughout the court that indicate “the court serves all people. It does not matter where you were born or what language you speak.”</p> <p>For each notice the court sends out to litigants, the court must include language that indicates the court’s obligation to provide free interpretation services. The notice should also include the LEP coordinator’s number as well as the LEP specific call-in numbers (described below).</p> <p>35.1(<i>new</i>) All bilingual staff must be tested through a standardized process before being instructed to utilize their language skills with court users. Such testing should include various levels designating oral and written proficiency. Staff shall be compensated accordingly with corresponding pay differentials. Utilization of language skills shall be made part of all job duties for staff with public contact.</p> <p>Qualified bilingual staff shall be designated on the court-wide phone list to be called upon to assist in appropriate situations. Guidelines and protocols shall be developed and trainings</p>	<p>Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5.</p> <p>Translation: With regard to the applicable language threshold for translation of notices, the plan has been modified, including a clear standard definition to ensure a consistent approach pending further research by the Implementation Task Force.</p> <p>Signage: Addressed in Recommendation No. 42 (former No. 41).</p> <p>Content of the notice: The content proposed beyond what is already included in the plan is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Timeline: Recommendation No. 5, which incorporates former No. 35, has been moved to Phase 1.</p> <p>New proposed recommendation: The JWG believes the proposed recommendation is not necessary. Recommendations Nos. 47 and 48 address the standardization of qualifications, testing, and training of bilingual staff.</p>

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	<p>provided to all staff.</p> <p>All bilingual staff shall be required to attend regular trainings regarding how to appropriately utilize their language skills with court users. The Office of Language Access shall develop standardized training curriculum and language resources, such as glossaries and other language-specific resources</p> <p>Recommendation 35 should be moved to Phase I because it is urgent and easy to implement but will have a tremendous impact on LEP litigants. For too long, litigants have been denied interpretive services. For this reason, it is key that litigants be properly informed of the courts' language access services in order for LEP individuals to have true meaningful access to the courts. Additionally, Recommendation 35 is directly related to Recommendation 5.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 35*] The reference to “top five” and “5 percent or more” seems overbroad. It is unclear whether the “top five” would include a language which is spoken by under 1% of the population in some counties. Maybe better to have one standard, such as any language spoken by more than 10%, or some reasonable level based on actual experience in counties. For example, the top five language requests in Orange in 2013 in criminal/traffic cases were:</p> <ul style="list-style-type: none"> • Spanish 82.4% • Vietnamese 9.6% • Korean 1.9% • Farsi 0.8% • Mandarin 0.7% <p>Only the top two languages involved more than 5% of need</p>	<p>Former Recommendation No. 35 has been deleted and incorporated into Recommendation No. 5. The JWG agrees, however, that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.</p>

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	<p>(a better measure than population), so preparing materials for the very low usage may not be cost effective, and might be better handled some other way.</p> <p>Additional efforts will be required to comply with this depending on the final recommendation.</p>	

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Goal IV: Provide High Quality Multi-Lingual Translation and Signage		
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Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding #36, Establishment of Translation Committee: The courts already employ many qualified translators on a full-time basis. To save money, I propose that the Translation Committee take advantage of this fact and request that qualified court interpreters volunteer to translate forms and signage into other languages.	The committee appreciates the recommendation that the translation committee (name TBD) should utilize court interpreter volunteers to translate forms and signage into other languages to save money. The translation committee will maximize existing resources at the local court level to secure quality translation of materials to other languages, and will secure additional resources where necessary to ensure expediency, quality control and standardization.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendations No. 36 and 61*] Advisory Committees – 2 advisory committees are recommended – Implementation and Translation. Is the intent for these to be free standing advisory committees or sub committees of existing advisory committees and are they time limited or ongoing?	Recommendation No. 60 (former No. 61) states the Judicial Council will create a Language Access Implementation Task Force, which includes representatives of major stakeholders. The translation committee is likely to be ongoing.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 36. The development of glossaries should not be limited to certified languages, but should include indigenous languages as well, as these can serve as important training tools and reference materials for indigenous language interpreters.	The JWG agrees that glossaries can serve as important training tools and reference materials for all interpreters, in all languages. However, the development of glossaries requires significant resources and the JWG believes it is critical to target all certified languages first. The JWG will relay this comment to the Implementation Task Force for further study and evaluation regarding inclusion of other glossaries in the future.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 36*] Orange County already has a protocol for local translations. The translators are qualified court interpreter employees who receive premium pay for translating per the MOU. For larger jobs, an outside vendor is used.	No response required.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 37. In addition to creating and sharing informational and educational materials in writing, the courts should also develop and share informational and educational	The JWG appreciates this comment and the need in indigenous communities for information in formats other than writing. The creation of videos is expensive

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	videos in indigenous languages because, as noted above, written materials will not meet the needs of most low-literacy indigenous language speakers.	and time-consuming, so Recommendation No. 18 (Former No. 15) focuses on the state’s 8 top languages and additional languages by captioning, which does not address the concern of indigenous language speakers. The JWG will submit this comment to the Implementation Task Force for further research into feasibility.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Translations – There are several places that reference either the top 5 languages or languages spoken by 5% or more of the population. Is the intent to do whichever is greater? Some places say, whichever “is appropriate” (Recommendation 38) and others say “at least” (Recommendation 42). For example, if the top 5 languages total 40% of the population but there are 2 additional languages that more than 5% of the population speak, should the translations be done in all 7 languages? If there are no languages other than English that are spoken by 5% of the population, are translations done in the top 5 languages? If done at the state level, this is probably a non-issue since most common languages will be either the top 5 or 5% of some court’s population.	The JWG agrees that the reference to the number of languages in which information should be provided was inconsistent and lacked clarity or statewide applicability. The plan has been modified, including a clear standard definition of applicable language threshold, to ensure a consistent approach pending further research by the Implementation Task Force.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 38*] Determine where this has been done, and what signs may need to have created. Do signs need to be approved by Facilities? How often should the signs/languages be reviewed? The top five can change from year to year? Signs coming out of Facilities budget? As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above.	The questions posed by the commentator are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee. See response to former Recommendation No. 35 above re. the reference to the language thresholds for translation.
Superior Court of Placer County,	Recommendation 39 (page 57) – The Working Group	The JWG appreciates the suggestion and the challenges

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Goal IV: Provide High Quality Multi-Lingual Translation and Signage		
Commentator	Comment	Committee Response
Jake Chatters, Court Executive Officer (Position = AM)	recommends providing sight and written translation of orders in all situations. We would suggest dividing this recommendation into one for sight translation and a second for written translation to better support implementation efforts. Striving to provide sight translation as part of Phase II of your implementation plan is a reasonable, if challenging, goal. As indicated in your Strategic Plan, the written translation of documents is substantially more complicated and therefore, may be more appropriately slated for Phase III.	that may be posed by Recommendation No. 40 (former No. 39), in particular the provision of written translations. However, as written, the recommendation merely provides a consideration of providing written translations. The minimum standard recommended addresses existing translations of Judicial Council forms that should not add to the courts’ burden.
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	[*Recommendation No. not stated; seems to relate to No. 39*] Include having the Judicial Council Staff develop cards in all 147 languages that state that the matter is being continued to request an interpreter and the continuance date, and, until interpreters are available in all subject areas, if the litigant is to bring someone, who is appropriate to act as an interpreter. In many cases the litigant can’t even understand when they are to return when the matter is continued to obtain an interpreter.	The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 39*] Sight translation is provided. Providing written translations of court orders would be labor intensive, requires a translator rather than an interpreter, and cannot generally be a generic form since court orders vary from person to person. Most Judicial Council forms do not have a translated version. See #36 above – would these forms fall under Judicial Council translation? If it’s a Judicial Council form, then shouldn’t the Judicial Council translate it?	The JWG appreciates the challenges that may be posed by Recommendation No. 40 (former No. 39), in particular the provision of written translations. However, as written, the recommendation merely provides a consideration of providing written translations. The minimum standard recommended addresses existing translations of Judicial Council forms that should not add to the courts’ burden.
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	We support the plan’s recommendation for the multilanguage translation of critical Judicial Council forms and the development of signage to help LEP litigants physically navigate the courts. SCDLS suggests that the plan create a timeline for translation of crucial forms. We also suggest that the signage be translated as soon as practical for language access resources already being provided by courts.	The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee. Former Recommendation No. 42 has been deleted and incorporated into Recommendation No. 5.

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Goal IV: Provide High Quality Multi-Lingual Translation and Signage		
Commentator	Comment	Committee Response
	Recommendation 42 should also be implemented for all language services already provided by courts.	
41 Legal Services and Community Organizations (Position = AM)	<p>We agree that the LAP should include the creation of the Translation Advisory Committee in Phase I of the implementation plan. However, given the necessity of informing court users of both their right to language access services and the information needed to obtain such services, such recommendations must absolutely be included in Phase I and not Phase II.</p> <p>This is especially true where the creation of a multi-lingual “tagline” has already been used in local courts.</p> <p>Furthermore, the creation of the Translation Advisory Committee and the statewide coordination of the multilingual translation of court forms and signage explaining court services, forms that implicate a litigant’s rights, duties, or privileges to their civil case, or forms explaining the availability of free language services must be provided immediately and not in Phase II as currently outlined.</p> <p>Below is proposed language to modify or replace the existing language in the LAP’s recommendations for Goal IV.</p> <p>39. Courts will provide sight translation of court orders and <i>must</i> provide written translation of an order to LEP litigants when the LEP litigant’s language is a language spoken by either at least five percent or more of the county’s population or at least 500 persons in a specific courthouse’s service area. Where the Judicial Council has already provided a translated version of any court form in a litigant’s preferred language (e.g. on the California Courts website), the court must provide that translated version of that form</p>	<p>Recommendation No. 36 is in Phase 1.</p> <p>Proposed language for Recommendation No. 40 (former No. 39): The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Proposed new recommendation: The detail suggested is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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Goal IV: Provide High Quality Multi-Lingual Translation and Signage		
Commentator	Comment	Committee Response
	<p>to the LEP litigant <i>even if</i> the litigant’s language is not one covered under the five percent or 500 persons threshold.</p> <p>39.1(<i>new</i>) Courts must identify a process by which to handle the submission of non-English forms submitted by LEP litigants. Courts must not outright reject such forms without providing alternative processes by which an LEP litigant can submit forms either in English or non-English language.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 40*] Other than signage, I’m not sure what this means.</p>	<p>Recommendation No. 41 (former No. 40) addresses the redesign of courthouses to be more intuitive for court users, including LEP persons, to diminish the need for and reliance upon signage and maps for wayfinding.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 42*] See #38 above</p> <p>Determine where this has been done, and what signs may need to be created.</p> <p>Do signs need to be approved by Facilities? How often should the signs/languages be reviewed?</p> <p>The top five can change from year to year? Signs coming out of Facilities budget?</p> <p>As to the reference to “top five” and “5 percent or more”, see response to recommendation 35 above.</p>	<p>The questions posed are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Re. the language threshold comment, see response to former Recommendation No. 35 above.</p>

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*From p. 61*] The notion that an “agreed-upon glossary of terms” can be developed is quite idealistic. One of the roles of the appellate courts is to tell us what terms mean when there is a disagreement. It might be more realistic to develop a glossary which indicates the different terms people might use in English and in another language, and what the differences in nuances are. It is not unusual to have interpreters disagree about which term to use, especially where there is no comparable word or concept in another language and culture.</p>	By “an agreed-upon glossary of terms,” the JWG intends to include proposing different terms that may appropriately be used, and did not meant to imply that every term would have only one adequate translation.
California Rural Legal Assistance, Inc. (Position = AM)	<p>Recommendation 43: Standards for qualification of interpreters. The Plan states that existing standards for qualifying court interpreters will remain in effect and will be regularly reviewed by the Court Interpreters Advisory Panel (CIAP). While current standards may be adequate to ensure the competency of interpreters in certified languages, indigenous language interpretation, for which there are no certification exams, is lacking any meaningful quality control. The fact that many indigenous language interpreters are only fluent in an indigenous language and Spanish (not English) creates additional challenges for ensuring high quality indigenous language interpreting. The majority of indigenous interpreters in the courts are not fluent enough in English to pass the oral proficiency exam required to become registered, and judges are ill-equipped to determine indigenous interpreters’ competency under the existing provisional qualification rules.</p> <p>The Judicial Council, the courts, and the CIAP should confront these challenges through collaboration with indigenous language interpreters. The Plan should direct the Judicial Council and the CIAP to form a special advisory committee or working group, including indigenous language interpreters and representatives of indigenous interpreter organizations, tasked</p>	The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
	with the development of qualification standards for indigenous language interpreters in the courts. A collaboration among CRLA, the Legal Aid Association of California, and the Ventura and Santa Barbara County Superior Courts has already resulted in two highly productive meetings with interpreters and indigenous community organizations to discuss indigenous language access in the courts; this group could form the basis of such a working group or committee.	
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 43. We agree that it is important for the courts to ensure that interpreters are qualified and competent. However, the courts and the Court Interpreters Advisory Panel (CIAP) must also consider the unique challenges in determining the qualifications and competency of indigenous language interpreters (for example, the wide variety of regional differences within languages, the lack of standardized written versions of indigenous languages, and the fact that many indigenous interpreters are not fluent in English and must work together in relay with Spanish-English interpreters). The Plan should require that the CIAP include as a member at least one indigenous language interpreter, and ideally, one for each of the major indigenous languages spoken in California. The indigenous language interpreters on the CIAP should consult with other indigenous interpreters, including the organizations collaborating on these comments, to gain insight and provide accurate representation. With the support and input of these interpreters and organizations, the CIAP should develop standards for qualifying indigenous language interpreters, both those who interpret from their indigenous language directly to English as well as those who interpret from their indigenous language to Spanish.	The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations	43. [*Proposed Language*] Courts and the Judicial Council should provide training and mentoring programs to prepare	The JWG appreciates the particular challenges presented regarding the quality of relay interpreters. The proposed

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(Position = AM)	<p>relay interpreters to meet the standards established. Many relay interpreters lack formal education and training and may require assistance in the form of ethics and other trainings and reference materials in the intermediate language.</p> <p>Courts should ensure that interpreters are competent in the language(s) in which they interpret. In addition to the existing standards for qualification, courts should establish a comprehensive system for credentialing or registering relay interpreters that includes prescreening, ethics training, an orientation program, continuing education, and a system to voir dire language services providers' qualifications in all settings for which they are used.</p>	<p>language, however, is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 43*]The Judicial Council should continue to oversee qualifying interpreters. Additionally, recommend that the Judicial Council background check and fingerprint all certified/registered interpreters to relieve each trial court of the cost, and also the interpreter of having to repeat the process in each court where they work. Often, contractors are used in multiple counties and each county conducts and pays for a background check. Also, recommend that the Judicial Council provide some sort of oversight for continuing certification that ensures that interpreters are still qualified.</p>	<p>The JWG appreciates the comment. This comment will be forwarded to the Implementation Task Force and/or the Court Interpreters Advisory Panel (CIAP) for further review.</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p>Recommendations 44 – 46. It is essential for the court system to invest in training for indigenous language interpreters, and the Plan should include a specific mandate to do so. The vast majority of indigenous language interpreters only interpret occasionally and are unable, because of the expense of training, the lack of work (though not necessarily the lack of need for their services), and poor pay, to sustain a career as interpreters. Providing high-quality free or low-cost training is the first step</p>	<p>The JWG appreciates the perspective presented and agrees that there are particular challenges presented regarding the quality of interpreters for languages for which there is no certification or registration offered, as well as for relay interpreters. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
	toward creating a more qualified and readily available group of indigenous interpreters. The Plan should direct the Judicial Council to collaborate with existing indigenous interpreters and interpreter organizations to develop a comprehensive free or low-cost interpreter training program to ensure there are sufficient qualified interpreters to meet the needs of currently underserved indigenous language speaking populations.	Re. directing the Judicial Council to collaborate with existing indigenous interpreters and interpreter organizations, Recommendation No. 45 already addresses such partnerships, and internship and mentorship opportunities with interpreter organizations.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>[*Recommendation No. 45*] Mentoring programs are recommended in the plan as a recruitment method (recommendation 45). CFI agrees that mentoring programs should be implemented as a training and recruitment tool for individuals seriously preparing for certification and a career in interpreting. Participants should be selected and screened based on standardized criteria. They should receive formal training, and should have opportunities for observation and increasing levels of practice with careful supervision and feedback. Mentoring programs should not be used to fill basic language access needs in the court system or as a source of free labor. Language access services need to be of predictable quality and regularly available; mentoring and volunteer programs are not suited to provide the necessary level of reliability and service.</p> <p>In our experience, courts have not implemented appropriate training programs, but instead have sought to put “interns” to work as free labor covering in-court proceedings in civil matters, without appropriate training, mentoring and supervision by a certified interpreter. We are receptive to working with the courts to establish appropriate mentoring programs with the features described above, for the purpose of increasing the ability of prospective interpreters to become certified and increase the pool of qualified interpreters.</p>	The JWG appreciates the comment and the suggestion by CFI to collaborate with courts regarding mentoring programs.

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
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41 Legal Services and Community Organizations (Position = AM)	45. [*Proposed Language*] The Judicial Council and the courts should work with interpreter organizations and educational providers (including community colleges and state universities) to examine ways to better prepare prospective interpreters to pass the credentialing exam. Once these strategies have been identified, the courts and Judicial Council will allocate the necessary resources to implementing the strategies. The Judicial Council and courts will: <ul style="list-style-type: none"> - Create and make available standardized training materials to prepare individuals for the qualification exams. - Partner with community organizations and education providers to develop exam preparation courses/tests. - Create internship and mentorship opportunities in the courts and in related legal settings (such as work with legal services providers or other legal professionals) to help train and prepare prospective interpreters in all legal areas. 	The JWG believes existing Recommendations Nos. 45 and 46 already address the proposed language.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No.45*] This is a good idea, but courts must consider the following: 1) Interns may not be allowed by union contracts, especially if the union feels that everything is unit work; 2) Time to oversee, schedule, background check, and provide feedback may become too labor intensive, especially in courts with staff reductions; and 3) If the court chooses to do background checks, there is a fee.	No response required.
California State Bar’s Standing Committee on the Delivery of Legal Services (Position = AM)	[*Recommendations 45 and 46*] SCDLS commends the courts and the Judicial Council’s commitment to recruit and train language access providers and to support the development of proficiency standards to ensure that language services are high quality. SCDLS agrees that both recruiting and training prospective interpreters are essential to help fulfill the demand for increased numbers of high quality interpreters in the years to come as the Language Access plan is implemented. We also	The JWG appreciates the support regarding these recommendations and suggestions proposed. However, the JWG believes the proposed additions are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
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	<p>support Recommendation 45, which acknowledges the importance of courts and community partners to work together to examine strategies to help prospective interpreters pass the credentialing exam. However, beyond developing initial strategies, this recommendation does not address specifically how the courts and the Judicial Council can work with these partners, or the roles they should play to effectively carry out the strategies to ensure that prospective interpreters are able to prepare for and pass the credentialing exam. Furthermore, Recommendation 46, which generally encourages collaboration, does not specify how the Judicial Council and interpreter groups should collaborate to develop trainings for interpreters who interpret in civil cases and remotely. Recommendations 45 and 46 would be improved by including an actual action plan or process that will help ensure that the recommendations result in positive changes in the future. SCDSL feels that having a pre-determined structure (perhaps involving an official subcommittee, working group, development of court supported pilot projects or training programs) to institute the collaborated strategies on a statewide level would help with these efforts. Beyond collaboration, the recommendations should require the Judicial Council, courts and interested partners to develop specific project goals, objectives, activities, and perhaps an evaluation plan to help further improve and increase the number of highly trained and certified interpreters that are physically and remotely available to LEPs in California.</p>	
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>Recommendations 45 and 46: Training for prospective interpreters to pass credentialing exams, interpret in civil cases, and interpret remotely. Any standards developed for qualifying indigenous language interpreters should be supported by training programs that will ensure enough indigenous interpreters are able to meet those standards.</p>	<p>The JWG appreciates the perspective presented. The suggestions proposed, however, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
	Recommendations 45 and 46 suggest that the Judicial Council collaborate with educational institutions and interpreter organizations to better prepare prospective interpreters to pass the credentialing exam and provide interpretation in civil cases and via remote technology. The Plan must do more than suggest collaboration, particularly with respect to meeting the training needs of indigenous language interpreters. It should call for the development of concrete training programs to train a reliable, qualified supply of interpreters in underserved languages, including indigenous languages. The same indigenous interpreter advisory committee or working group mentioned in our comments on Recommendation 43 could assist the Judicial Council in developing and implementing a training plan for indigenous interpreters to prepare them to meet whatever credentialing standards are put in place.	
41 Legal Services and Community Organizations (Position = AM)	46. [*Proposed Language*] The Judicial Council should collaborate with interpreter organizations and educational groups to create training programs for those who will be interpreting in civil cases and those who will be providing remote interpreting. The goal of this collaboration will be to produce effective, standardized training materials for current and future interpreters working with civil cases and remote interpreting technologies. Trainings should incorporate: - Reference materials containing standardized explanations of legal terminology and court procedures for civil cases - Remote interpreting trainings should educate current and future interpreters on effectively providing quality interpretation using technology.	The JWG believes that Recommendation No. 46 is sufficient as written and other recommendations already incorporate the suggested language. Any further detail regarding these collaborative efforts is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 46*] Recommend the Judicial Council Video Broadcasts be expanded and other instructor led training be developed to cover the various topics related to all case types.	The suggestion proposed is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
41 Legal Services and Community Organizations (Position = AM)	47. [*Proposed Language*] At a minimum, courts should require bilingual staff to possess a Superior proficiency level. Speakers with Superior proficiency are capable of assisting LEP speakers at access points that Intermediate Mid speakers are not. The LAP should require courts hire and retain a minimum number of staff with Superior proficiency in the languages most frequently encountered in the court's service area.	With regard to the minimum level of qualification for the designation of bilingual staff members, the JWG believes that the minimum level as currently addressed in the plan under Recommendation No. 47 is appropriate. The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact such as self-help centers and information windows will require a higher level of proficiency than the minimum recommended Recommendation No. 47.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 47*] A bilingual standard is desirable, however, there is a cost of \$165 to take the Oral Proficiency Exam, as well as time involved. Will employees asking for bilingual pay be required to take the exam? Who will pay for it? If the court required the current 155 employees who receive bilingual pay take the test, it would cost \$25,575.00. Do the employees go to the test center on our time or theirs? During a discussion at the Judicial Council it was thought that if the employees wanted the premium pay, they would do this on their own time and be required to pay. Would this discourage staff from asking for the premium pay and using their bilingual skills?</p> <p>Recommend the AOC determine a less expensive method of qualifying bilingual staff who will not be used in courtrooms.</p> <p>Recommend a higher level of proficiency be required for paralegals.</p>	<p>The questions posed are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Re. higher level of proficiency for paralegals: The plan, as provided in Recommendation No. 48, also recognizes that certain points of contact such as self-help centers and information windows will require a higher level of proficiency than the minimum recommended Recommendation No. 47.</p>

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
Commentator	Comment	Committee Response
	Recommend trial courts check the local county HR to see if there is a less expensive method - piggy back.	
41 Legal Services and Community Organizations (Position = AM)	48. [*Proposed Language*] Courts must ensure that the staff member at the point of contact possesses the language proficiency designated by the Judicial Council. This should be done in a standardized format, such as requiring staff members claiming to be bilingual take the OPE.	The JWG believes existing Recommendations No. 47 and 48 adequately address the goals behind the proposed language.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 48*] On-line training is great. However, Judicial Council needs to keep in mind the length of training as it will pull critical staff from operations.	No response required.
41 Legal Services and Community Organizations (Position = AM)	49. [*Proposed Language*] The Judicial Council staff will work with educational providers, community-based organizations, and interpreter organizations to identify recruitment strategies to encourage bilingual individuals to pursue the interpreting profession or employment opportunities in the courts as bilingual staff. This includes identifying bilingual individuals and tailoring programs to fit their needs. Once these strategies have been identified, the Judicial Council will dedicate the resources necessary to implementing them. Courts and the Judicial Council must implement an accountability mechanism to assess annual recruitment and retention. Action items as part of this recommendation include: - The Judicial Council will build coalitions with community organizations, local colleges and training centers to provide outreach on careers within the court system requiring language skills. The Judicial Council should work with career centers, attend job fairs, and develop an online presence, as well as other media strategies to promote opportunities. - The Judicial Council will implement mentor programs and training programs for individuals interested in becoming	The level of detail suggested in the proposed language is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal V: Expand High Quality Language Access Through the Recruitment and Training of Language Access Providers		
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	<p>interpreters or working for the courts.</p> <p>- The Judicial Council will make the certification and examination process more accessible by offering scholarships or other assistance to prospective interpreters and bilingual staff who speak underserved languages.</p>	
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>All of Section V’s recommendations, except for recommendation 49 on recruitment, are in the first phase and should remain there. Parts of Recommendation 49, such as building relationships with community networks, should occur immediately to ensure a qualified resource pool of future bilingual staff and interpreters. However, this is partially accounted for in Recommendation 45 on training. Additionally, several recommendations must be implemented if a serious recruitment initiative is to be effective, so it is less urgent to move recruitment to Phase I.</p>	<p>No response required.</p>

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
Commentator	Comment	Committee Response
<p>California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)</p>	<ul style="list-style-type: none"> • Staff training on language access policies and procedures is critical. The Commission applauds Recommendation 50, regarding training court staff, administrators and bench officers to provide consistent, effective, and culturally competent language access services. In <i>Language Barriers</i>, the Commission recommended this type of training to give court staff the skills to determine what language assistance is needed, and what level of interpreter is capable of providing adequate service under the circumstances. The report further recommended that staff be provided with training in cultural differences because litigants from other countries may bring different political and cultural norms and perceptions that can affect courtroom communication. The report highlights the importance of adequate training because court staff without knowledge of the potential problems posed by cultural differences could inadvertently act or fail to act in ways that could prejudice the interests of litigants. 	<p>No response required.</p>
<p>California Rural Legal Assistance, Inc. (Position = AM)</p>	<p>Recommendation 50: Recommendation 50 should include training for judicial officers and court staff on how to best identify the language needs of indigenous language speaking court users. As we have previously mentioned, the diversity of regional variations within indigenous language groups often leads to an individual being provided an interpreter whom he or she does not understand, and indigenous language speakers are often erroneously provided interpretation in Spanish. The Plan should state that the Judicial Council will consult with indigenous interpreters and community groups (possibly the group mentioned above in comments on Recommendations 43, 45 and 46) to develop protocols for identifying indigenous languages (i.e. what questions court staff must ask in order to</p>	<p>The specific detail of what will be included in the curricula for all training of court staff and judicial officers is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p>

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
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	determine the language and regional variant spoken by an indigenous court user) and ensuring the correct interpreter is provided. The plan should require that court staff be trained in these protocols and provided continually updated information on the indigenous interpreter resources available to them.	
Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)	<p>Phase I – 50. Judicial Branch training regarding language access plan. Recommendation: Modify the second bullet to read, “Review the Professional Standards and Ethics for California Court Interpreters, Fifth Edition, May 2013.”</p> <p>The second bullet of this section currently reads: “The interpreter’s ‘ethical duty to clarify issues’ during interpretation and to report impediments to performance.</p> <p>It is unclear what the interpreter’s ‘ethical duty to clarify issues’ really means. California Rules of Court Rule 2.890 sets forth the requirements for the professional conduct for interpreters. Additionally, the <i>Professional Standards and Ethics for California Court Interpreters</i>, Fifth Edition, May 2013 goes into depth regarding the appropriate role of the interpreter. As the staff of the Judicial Council develop curricula for statewide and regional training, in addition to resource materials both the court and the interpreters need one document to specify the expectations so everyone has a chance for success.</p> <p>This also ties back to the critical need as currently set forth in Phase III number 64, Complaints regarding court interpreters, and the need for evaluations. Everyone needs to know and understand the expectations to allow us to reach our goal for fair and consistent service for LEP court users.</p>	Recommendation No. 43 already addresses the ongoing review by the Court Interpreters Advisory Panel of all existing standards for court interpreters.
Indigenous Language Interpreters and Community Organizations	Recommendation 50. The Plan should state that training for judges and court staff will include cultural sensitivity and	Recommendation No. 50 already addresses, in the last bullet point, training on cultural competence for all court

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
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(Position = AM)	competency training for working with indigenous court users. As stated above in Recommendation 1, this should also include training for court staff in how to properly identify indigenous languages and find the correct interpreter match. Spanish-English court interpreters should also receive this training as part of their continuing education requirements, because they are often in a position to recognize when an indigenous language speaker has been erroneously provided with Spanish interpretation. Mandated cultural sensitivity training for Spanish interpreters will also assist them to better cooperate with indigenous interpreters in relay interpreting settings, where some understanding of indigenous cultural norms, formal education levels, and linguistic differences would allow for better quality relay interpretation.	staff and judicial officers. With regard to the other additions proposed, the specific detail of what will be included in the curricula for all training of court staff and judicial officers is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendation 50. We recommend adding a bullet point to this description of what training should include, as follows: • The interpreter’s need for basic information, preparation time, and pre-appearance interviews in some proceedings such as trials and other evidentiary hearings.	Recommendation No. 50 has been revised to include more detail regarding working with interpreters. Any detail of what should be included in training curricula beyond what is already in the recommendation is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	50. [*Proposed Language*] Judicial officers, court administrators, court staff, and court-appointed professionals will receive systematic training regarding the requirements and mandates under state and federal law, the judicial branch’s language access policies and requirements as delineated in California’s LAP, as well as the policies and procedures of their individual courts. Courts will schedule such trainings at regular intervals, at least every two years, and incorporate this information into written materials available to all staff and reviewed with new hires. Courts must also schedule additional trainings when policies are updated or changed. Each court’s	The specific detail of what will be included in the curricula for all training of court staff and judicial officers, as well as timelines for trainings and reporting by courts of designated training, are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
Commentator	Comment	Committee Response
	<p>designated trainings coordinator must report to the state office the following information: (a) number of trainings their staff attended; (b) who led the trainings; and (c) materials reviewed at such trainings.</p> <p>At a minimum, the mandatory training topic areas include:</p> <ul style="list-style-type: none"> - Background on language access issues, including review of legal requirements, mandates and policies - Review of California’s LAP - Processes for identifying LEP court users and for identifying the language spoken (including for indigenous and other languages with high degrees of regional variation) - Language access services available to LEP litigants, including technological assistance (interpreters, bilingual staff, translated materials, websites, VRI, headphones, kiosks) - Processes for appointment of interpreters and methods for verifying interpreter’s credentials - Role of interpreters inside and outside the courtroom - Interpreter code of ethics, including duty to clarify issues during interpretation and to report impediments to performance - Legal services and community-based organizations that court staff can refer to for more information on how to better serve LEP individuals - Cultural competency and awareness trainings on working with specific populations - How to work effectively with interpreters - (For judicial officers) Optimal methods for managing court proceedings involving interpreters, including the challenges of interpreter fatigue and the need to control rapid rates of speech and dialogue - (For qualified, non-certified bilingual court staff) How to work as an interpreter 	

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
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	<ul style="list-style-type: none"> - Available technologies and minimal technical and operational standards for providing remote interpreting - Role of the court’s language access coordinator 	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 50*] Recommend each trial court develop a communication plan for ensuring that the language access plan and policies are widely disseminated and appropriately applied.</p> <p>Local Orange County Interpreter Information Sheet distributed to judicial officers and court clerks, Spring 2014, and shared with the Judicial Council.</p> <p>It’s recommended that the Judicial Council send curriculum out for comment once it’s developed.</p> <p>Strongly recommend that temporary judges and judges sitting on assignment be included in the training.</p>	<p>Recommendations Nos. 25, 50, 51, and 52 all address methods for ensuring the language access plan and its provisions are widely disseminated and properly applied.</p> <p>It is the intent of the JWG that temporary judges and judges sitting on assignment be included, as Recommendation No. 50 provides.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 51*] This would be part of the training</p>	<p>No response required.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>Recommendation 52. Bench cards and other language used by judges when explaining an individual’s language access rights should be conveyed in plain, understandable language. While the use of more accessible language is important throughout court proceedings, given the inherent communication challenges faced by LEP litigants, it is especially necessary to ensure that they understand their right to language assistance.</p>	<p>Recommendation No. 52 is aimed at creating a bench card for use by judicial officers to understand the court’s language access policies, not at creating materials or providing information to the public or LEP court users at large, which is addressed elsewhere in this plan. Therefore, the JWG believes the wording of Recommendation No. 52 is sufficient as written.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>52. [*Proposed Language*] Judicial Council staff should develop bench cards that summarize salient language access policies and procedures and available resources to assist bench</p>	<p>The specific detail of what will be included in the benchcards, and the process by which local courts will communicate local policies, are more appropriate for</p>

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Goal VI: Provide Judicial Branch Training on Language Access Policies and Procedures		
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	officers in addressing language issues that arise in the courtroom. Each individual court’s language access coordinator should be responsible for memorializing local policies and procedures in an easy-to-read format that should be regularly updated and distributed to all court staff, community members, and local agencies and organizations that serve LEP populations.	consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 52*] Orange County’s Interpreter Information Sheet has been submitted to CIAP as one example.	The JWG appreciates the submission. Samples have been collected and will be submitted to the Implementation Task Force.

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Goal VII: Conduct Outreach to Communities Regarding Language Access Services		
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California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> The courts should continue to communicate with the Limited English Proficient community and LEP advocates. The Commission is aware of the tremendous amount of work that was involved in creating the <i>Strategic Plan</i> and commends the Joint Working Group for listening to so many voices in developing the <i>Plan</i>, particularly those of the LEP community and of the legal services community. Both the public hearings and Recommendation 53, “Courts should establish partnerships with local community-based organizations...to gather feedback to improve court services for LEP court users and disseminate court information and education,” parallel the recommendation in <i>Language Barriers</i> that “local courts work with community-based organizations....to address language access issues and needs.” Ongoing communication, education, and improvements to language access in the courts will ensure that the goals of the <i>Strategic Plan</i> continue to be met in the future. 	No response required.
41 Legal Services and Community Organizations (Position = AM)	53. [*Proposed Language*] Courts should establish partnerships with local community-based organizations, including social service providers, legal services organizations, government agencies, and minority bar associations to gather feedback to improve court services for LEP court users and disseminate court information and education throughout the community. Gathering such feedback should include, but is not limited to, a survey of local partners to determine current language needs, as a supplement to existing data sources.	The JWG believes that the proposed addition regarding one of the ways to gather feedback is not necessary, as courts should have the flexibility to develop the feedback mechanisms that are most appropriate given their existing, and new, relationships with their communities.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 53*] What does this look like? Is more needed than we have already done?</p> <p>We have complaint/suggestion forms. We have received</p>	With regard to the questions posed, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal VII: Conduct Outreach to Communities Regarding Language Access Services		
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	<p>feedback from our Leadership Academy for community leaders, and the court has conducted various surveys over the years. Staff did reach out to all bar associations to offer training on working with court interpreters; and other than the attorneys at family law and juvenile, no one was very interested.</p> <p>There are probably ethical issues with courts “establish[ing] partnerships” with organizations, in particular when the organizations are engaged in advocacy or often appear in court. Providing a transparent means of accepting comments would be sufficient.</p>	<p>Term “partnership”: Recommendation No. 53 has been revised to remove the word “partnership” and reference the need to strengthen existing relationships and create new ones.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>54. [*Proposed Language*] Courts should take affirmative steps to inform the public with specific information about language access services available in the courts by, among other means, ongoing communication with community-based organizations and other stakeholders. Such specific information disseminated to the public should include, but is not limited to: what an interpreter does and cannot do; the availability of free interpretation services; acknowledgement of improvements in language access over past practices; federal and state rights that guarantee meaningful language access; how to use and access self-help centers; basic, key requirements of the final LAP; information about Alternative Dispute Resolution programs; the potential use of video remote interpretation; and the availability of a complaint process regarding the quality of language assistance.</p>	<p>Former Recommendation No. 54 has been deleted and incorporated into Recommendation 5.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 54*] LEP plan posted on website. Other suggestions? Press release?</p>	<p>Note, former Recommendation No. 54 has been deleted and incorporated into Recommendation No. 5.</p> <p>With regard to the request for suggestions, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant</p>

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Goal VII: Conduct Outreach to Communities Regarding Language Access Services		
Commentator	Comment	Committee Response
		suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	55. [*Proposed Language*] To maximize both access and efficiency, multilingual audio and/or video recordings should be used to provide important general information and answers to frequently asked questions when possible; however, courts should also utilize alternative non-English language resources both in courthouses and in outside community outreach efforts, out of recognition that certain LEP individuals, including elderly and low-income persons, may not have sufficient comfort, familiarity, or regular access to certain technologies such that newer platforms would not convey information as effectively as more traditional methods.	The JWG believes the current plan language addresses providing information to LEP court users in a variety of formats, taking into account the concerns raised by the commentator. See Recommendations Nos. 5, 18 (former No. 15), 32 (former No. 31), 35 (former No. 34), 38 (former No. 37), and 53.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 55*] This is a great idea where the information is not likely to change, or is not different depending on the judicial officer.	The JWG agrees that these tools are best directed at information not likely to change or not dependent on a particular courtroom or courthouse.
41 Legal Services and Community Organizations (Position = AM)	56. [*Proposed Language*] Courts should collaborate with a diverse selection of local media providers (including non-English television stations, local websites, newspapers, and radio stations) and leverage the resources of media outlets—including ethnic media that communicate with consumers in their language—as a means of disseminating information throughout the community about language access services, the court process, and available court resources. 56.1. (new) Courts should designate an individual or office responsible for overseeing and coordinating outreach efforts within a court’s service area to ensure that information communicated to the public is accurate and consistent over time, as well as to foster longterm working relationships with various community groups and other stakeholders.	The JWG appreciates the additional proposed language but does not believe it is necessary for inclusion and for the effectiveness and intent of Recommendation No. 55 (former No. 56). With regard to the request for additional recommendations, they are more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.

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Goal VII: Conduct Outreach to Communities Regarding Language Access Services		
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	<p>Similarly, centralized coordination should take place at the state level.</p> <p>56.2. (new) Where applicable, courts should place special emphasis on conducting outreach activities with smaller, less-widely spoken language groups and underserved languages, including indigenous language communities, both in terms of informing these groups about the availability of court services, but also with respect to potential recruitment of bilingual/multilingual language assistance providers.</p>	
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 56*] See #53 and 54 above. These are all related.</p>	<p>See responses to Recommendation No. 53 and former Recommendation No. 54 above.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>It is unacceptable that all of the [*community outreach*] recommendations under this section fall under Phase III. Courts should begin implementing these recommendations as quickly as possible, particularly those concerning the formation of partnerships with community groups and other stakeholders. Such partnerships will provide crucial feedback and avenues through which to distribute vital information to the public, and will inform much of the implementation of the LAP.</p> <p>Partnerships with the local community and disseminating information regarding language access services are critical in providing meaningful access to justice. Not taking steps to appropriately outreach to the community immediately paralyzes the effectiveness of the policies themselves. At a minimum, Recommendations 53, 54, and 56.1 should be moved into Phase I, and the remaining recommendations should be moved into Phase II.</p>	<p>The JWG disagrees and believes that it is of higher priority to put various language access services in place before doing additional community outreach. However, court efforts to conduct new or strengthened community outreach may begin right away.</p>

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Goal VIII: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management		
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California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> Additional resources from the legislature are needed to implement the plan. The Commission strongly endorses Recommendation 57 of the Strategic Plan, regarding securing funding for language implementation through legislation, so that all phases of the plan can be fully implemented without <i>any</i> reduction in other court services, which are already highly impacted by the last four years of budget cuts. 	<p>No response required.</p> <p>Note that former Recommendation No. 57 is now Recommendation No. 56.</p>
Sue Alexander, Commissioner, Superior Court of Alameda County (Position = AM)	Complaint process – There may be an issue of having bilingual staff assist (page 78) since that may be the only staff that speaks the complainant’s language and may be the one they are complaining about. If that’s the case, there may need to be some referral process for assistance, keeping in mind confidentiality issues.	The JWG agrees about the potential for a conflict and believes courts, at the local level, are best equipped to handle this situation if and when it arises.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendations 57 – 60. The court system’s efforts to obtain sufficient funding to support the expansion of language access services should include funding allocated specifically for indigenous interpreter training. If this is not considered a budget priority, courts will continue to struggle to find qualified indigenous language interpreters and indigenous court users will continue to suffer from unequal access to the courts.	<p>The JWG believes detail on the allocation of funding is more appropriate for consideration by the Implementation Task Force. The JWG will forward all relevant suggestions to said committee.</p> <p>Note that former Recommendations Nos. 57-60 are now Recommendations No. 56-59.</p>
41 Legal Services and Community Organizations (Position = AM)	57. [* Proposed Language*] The judicial branch will advocate for sufficient funding to provide comprehensive language access services as a core function and necessary cost of business. The funding request should reflect the incremental phasing in of the language access plan.	<p>The JWG believes the proposed language is not necessary to convey the intent and applicability of this recommendation.</p> <p>Note that former Recommendation No. 57 is now Recommendation No. 56.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 57*] Funding needs to include money to cover coordinators and staff to support expanded language access and training.	<p>The JWG agrees that this should be a component of any funding request.</p> <p>Note that former Recommendation No. 57 is now</p>

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		Recommendation No. 56.
41 Legal Services and Community Organizations (Position = AM)	58. [*Proposed Language*] Funding requests for comprehensive language access services must be premised on the best available data that identifies the resources necessary to effectuate the recommendations of California’s Language Access Plan. This may include information being gathered in connection with the recent Judicial Council decision to expand the use of Program 45.45 funds for civil cases where parties are indigent; information being gathered for the 2015 Language Need and Interpreter use Report; already-available data through the Department of Education and local welfare agencies such as the Department of Public Social Services; and information that can be extrapolated from the Resource Assessment Study (which looks at court staff workload), as well as other court records (e.g., self-help center records regarding LEP court users).	The JWG believes the proposed language is not necessary to convey the intent and applicability of this recommendation. Note that former Recommendation No. 58 is now Recommendation No. 57.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 58*] Recommend the Judicial Council provide support and resources as needed to assist trial courts in capturing accurate cost data for funding requests.	Recommendations Nos. 6 and 7 already address support by the Judicial Council regarding capturing necessary data. Note that former Recommendation No. 58 is now Recommendation 57.
41 Legal Services and Community Organizations (Position = AM)	59. [*Proposed Language*] Judicial Council staff will pursue other funding opportunities from federal, state, or nonprofit entities, such as the National Center for State Courts, which are particularly suitable for one-time projects such as translation of documents or production of videos.	The JWG agrees with the use of “will” and has revised Recommendation No. 58 (former No. 59) accordingly.
Superior Court of Orange County, Alan Carlson, Court Executive Officer	[*Recommendation No. 59*] If other funding is available, courts should be made aware of it and requesting the funding should not be overly complicated. Generally, one-time funders	The Judicial Council is not in control of whether funding applications or opportunities from other outside agencies are overly burdensome or complicated. Judicial Council

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Goal VIII: Identify Systems, Funding, and Legislation Necessary for Plan Implementation and Language Access Management		
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(Position = AM)	<p>are interested in new ideas or new approaches, not routine expenses, such as translation of documents or replication of videos where someone has already done something like what is being requested.</p> <p>The National Center for State Courts is not a funding source, although they may seek courts to engage in pilot projects with funding FROM the courts or other funders.</p>	<p>staff currently makes and should continue to make every effort to assist courts in completing grant applications. The JWG agrees that one-time funding applications will need to take the funders’ eligibility requirements into account. Pilot-related funding can be useful for courts that are expanding into new service delivery models.</p> <p>Note that former Recommendation No. 59 is now Recommendation No. 58.</p>
41 Legal Services and Community Organizations (Position = AM)	<p>60. [*Proposed Language*] Courts will pursue other funding opportunities at the national, state, or local level to support the provision of language access services. Courts should seek, for example, onetime or ongoing grants from federal, state, or local governments, and others.</p>	<p>The decision to pursue other funding opportunities must be left to the discretion of the courts, as the decision often involves consideration of other local needs and resources.</p> <p>Note that former Recommendation No. 60 is now Recommendation No. 59.</p>
Superior Court of Alameda County, Leah T. Wilson, Court Executive Officer (Position = N)	<p>[*Recommendation No. 60*] The pursuit of grant funding does not seem like a realistic strategy for systemic and structural expanded language access. Grant funds are limited-term, and are often tied to specific deliverables/objectives, which may or may not align with the statewide strategies outlined in this Plan. Reliance on grant funds can lead organizations down a path of chasing funding, rather than implementing policy consistently. Further, any significant reliance on this funding source will result in disparate service levels from court to court, which in and of itself will raise access and equity concerns.</p>	<p>The JWG is not suggesting that courts rely on grant funds to provide language access. To the contrary, as stated in Recommendation No. 59 (former No. 60), courts are merely encouraged to pursue other funding opportunities, and such opportunities are meant to support the provision of language access services, and not be the sole or principal source of funds for provision of services.</p>
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 60*] Recommend the Judicial Council provide guidance, support and coordination in this area to ensure trial courts are not competing against each other for these sources of funding.</p>	<p>While Judicial Council staff currently supports trial courts in identifying or seeking sources of funding, the JWG acknowledges that coordination of efforts would be useful and will forward this comment to the Implementation Task Force.</p>

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	More fundamentally, one time funding will not solve the basic problems covered in this report, which are ongoing, and have existed for quite some time.	Note that former Recommendation No. 60 is now Recommendation No. 59.
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 61. The Language Access Implementation Advisory Committee should include representation of indigenous language interpreters as well as indigenous community organizations to ensure that the particular needs of indigenous language speakers are understood and addressed throughout implementation of the Plan.	Recommendation No. 60 (former No. 61) states the Judicial Council will create a Language Access Implementation Advisory Committee, which includes representatives of major stakeholders, including court interpreters among others.
41 Legal Services and Community Organizations (Position = AM)	61. [*Proposed Language*] The Judicial Council will create a Language Access Implementation Advisory Committee (name TBD) to develop a phased implementation plan for presentation to the council. As part of its implementation plan, the committee will identify the yearly costs required to phase in the LAP recommendations. Legal services and community organizations must be included in this Implementation Committee as stakeholders.	The specific duties of the Implementation Task Force are more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee. Note that former Recommendation No. 61 is now Recommendation No. 60.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 61*] Recommend trial courts be allowed flexibility to implement to meet local needs considering local resources and regional MOUs.	The JWG believes the plan provides local courts the necessary flexibility to meet local needs and consider local resources and memoranda of understanding. Note that former Recommendation No. 61 is now Recommendation No. 60.
41 Legal Services and Community Organizations (Position = AM)	62. [*Proposed Language*]The Implementation Committee will develop a single form available free of charge either online or at the courts that is available statewide as a mechanism for monitoring all concerns related to language access at the local or state level. The form should be used as part of multiple processes identified in the following recommendations of this plan. However, completion of such form is not necessary to raise a complaint.	Recommendation No. 62 has been revised to clarify the availability of the complaint form in hard copy. Regarding proposed Recommendation 63.5, the JWG believes that the Implementation Task Force will be able to seek community input as needed.

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	63.5. (new) The courts will create both a statewide Language Access Oversight Committee (LAOC) and local LAOCs to ensure implementation of the language access plan on a statewide and local level. Such LAOCs must include legal services providers and provide monitoring functions	
Indigenous Language Interpreters and Community Organizations (Position = AM)	Recommendation 62 – 67. The compliance and monitoring system should include provision of clear information to the public. Any complaint forms or processes should be designed to be as simple, streamlined, and user-friendly as possible to in order to be accessible to all court users, including indigenous language speakers.	The JWG agrees and has included this language. Recommendation No. 62 provides for a single complaint form, readily available, and Recommendation No. 64 provides for the system to be clearly communicated and in plain language. Note that former Recommendations Nos. 62-67 are now Recommendations No. 61-65.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 62*] Recommend local court involvement in order to address local issues. Recommend state oversight as it pertains to ruling as to certification/ registration status.	Recommendation No. 63 (former No. 66) has been revised to indicate that review of complaints regarding a court’s provision, or lack of provision, of language access services shall occur at the local level, and that complaints shall be reported to the Judicial Council for the purposes of ongoing monitoring of the language access plan.
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	Recommendations 62, 65 and 66. We support the concept of a complaint form related to language access issues, and assessment of interpreter skills and adherence to ethical requirements. These processes should be developed with interpreter organizations, and should include peer review and	The JWG appreciates support for Recommendations Nos. 62, 65 and 63 (former No. 66). With regard to specifics regarding the implementation of these recommendations, they are more appropriate for consideration by the Implementation Task Force itself.

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	an opportunity for interpreters to be informed of and respond to any issues that arise.	The JWG will forward all relevant suggestions to said committee.
41 Legal Services and Community Organizations (Position = AM)	We propose one of these two options: - Recommendation 63 be moved from Phase II to Phase I; move Recommendations 64-67 to Phase I, OR - Include specific baseline procedural safeguards in the LAP itself or to be developed by the Implementation in Phase I; move Recommendations 64-67 to Phase II.	Recommendation Nos. 61 (former No. 63) and 63 (former No. 66) have been moved to Phase 1. Recommendation Nos. 64 has been moved to Phase 2. Recommendation No. 65 remains in Phase 3. Former Recommendation 67 has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 63*] Data collection requirements should be made known to courts well in advance of collection, so that the infrastructure to collect the data may be put in place. This often requires modification to CMSs, training of staff, etc.	With regard to specifics regarding plan compliance and monitoring, implementation of this recommendation is more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee.
Superior Court of Fresno County, Sheran L. Morton, Court Executive Officer (Position = AM)	PHASE III – 64. Complaints regarding court interpreters Recommendation: begin developing a process to evaluate interpreters immediately. Currently there is no standardized process to evaluate the quality and the accuracy of an interpreter’s skills. This makes it extremely difficult – almost impossible - to handle a complaint regarding an interpreter. In the past, when a complaint was made regarding an interpreter’s inaccurate interpretation of what was said in the courtroom, the Judicial Council staff attorneys were unable to help with any type of solution or even a viable recommendation. The interpreters are the only court employees that do not have an evaluation process in place. This opens up courts for grievances, PERB charges, and general distrust by our employees and the very people we are working so hard to provide quality access to our courts.	No response required.
41 Legal Services and Community Organizations	64. [*Proposed Language*] The Judicial Council, together with stakeholders, will develop a complaint process by which	Recommendation No. 64 has been revised to add further language regarding development of a process to ensure

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(Position = AM)	the quality and accuracy of an interpreter’s skills and adherence to ethical requirements can be reviewed.	compliance with qualification standards and appropriate remedial action if necessary.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 64*] This is long overdue and should be combined with recommendation 43 above.	No response required.
41 Legal Services and Community Organizations (Position = AM)	66. [*Proposed Language*] Individual courts and their Language Access Coordinators will develop a process by which LEP court users, their advocates and attorneys, or other interested persons may seek review of a court’s provision of, or failure to provide, appropriate language access services, including issues related to locally produced translations. The process must consider local labor agreements. “Local courts must follow the local baseline procedures offered in this plan and further developed by the Implementation Committee. The Language Access Coordinator must serve as a point-person to receive and administer complaints, and also to adjudicate complaints.	Recommendation No. 63 (former No. 66) has been revised to indicate that review of complaints regarding a court’s provision, or lack of provision, of language access services shall occur at the local level, and that complaints shall be reported to the Judicial Council for the purposes of ongoing monitoring of the language access plan.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 66*] Orange County already has a feedback process available and any language related complaints are sent to the CRIS office for review. CRIS takes action if necessary, and responds to the complainant.	No response required.
41 Legal Services and Community Organizations (Position = AM)	67. [*Proposed Language*] The Implementation Committee will develop a process by which a litigant or his or her legal representative may request a review of the outcome of any complaint submitted to a court regarding (1) quality or accuracy of an interpreter’s skills and adherence to ethical requirements as described in Recommendation 64; (2) the quality of translations approved by the judicial Council as described in Recommendation 65; or (3) provision of, or failure to provide, appropriate language access services, as described	Recommendation No. 67 has been deleted.

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	in Recommendation 66. The Implementation Committee or another centralized body will adjudicate appeals, with published decisions as binding precedent. Filing and decisions shall be stored in a database to monitor progress and areas for improvement.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 67*] Why would a language access complaint be given any different treatment than another complaint? Does there really need to be a formal review process? Someone who is unhappy with the response they receive will find a way to elevate the complaint anyway.	Recommendation No. 67 has been deleted.
41 Legal Services and Community Organizations (Position = AM)	68. [*Proposed Language*] The Judicial Council will create a statewide repository of language access resources, whether existing or to be developed, that includes translated materials, audiovisual tools, and appeal decisions on complaints pertaining to implementation of the LAP Plan, interpretation, or translation. The statewide LAOC shall have discretion to determine whether certain appellate decisions shall serve as binding precedent on implementation of the LAP statewide.	The JWG has maintained the language of Recommendation No. 66 (former No. 68). The JWG has deleted former Recommendation No. 67, and therefore, there is no statewide review of locally determined-upon complaints, so appeals at the statewide level are not included in this plan.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 68*] Recommend translation committee oversight to ensure quality material is being posted.	The JWG agrees. Note that former Recommendation No. 68 is now Recommendation No. 66.
41 Legal Services and Community Organizations (Position = AM)	69. [*Proposed Language*] The California Courts of Appeal and the Supreme Court of California will discuss and adopt applicable parts of California’s Language Access Plan with necessary modifications. 69.1. (new) The Implementation Committee will meet with the statewide LAOC at least quarterly and more often as needed to ensure implementation of the LAP. 69.2. (new) The Implementation Committee, along with the	Changing “should” to “must”: The JWG has maintained the language of Recommendation No. 67 (former No. 69). Re. proposed new recommendations 69.1 and 69.2: Further specifics regarding the implementation of these recommendations or of the duties of the Implementation Task Force are more appropriate for consideration by the Implementation Task Force itself. The JWG will forward all relevant suggestions to said committee.

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	<p>statewide LAOC, shall conduct public hearings throughout the state after Phases I, II, and III to assess the ongoing needs, and as often thereafter as deemed necessary by the committee.</p> <p>69.3. (new) The courts must record proceedings involving LEP litigants. Transcripts from such proceedings may be used in the complaint process or for monitoring purposes, and may also be used for appeals. Courts must notify LEP litigants of their right to have proceedings recorded or reported, subject to fee waiver rules.</p>	<p>Re. proposed new recommendation 69.3: The JWG does not believe at this time that it is appropriate to recommend or request that courts record proceedings involving LEP litigants.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 70*] Recommend civil case types adopt the same rules of court that apply to criminal and juvenile matters for making a finding of good cause.</p> <p>Recommend these rules be updated for all case types. Concerns: What if NO interpreter is available – credentialed or not? Can the courts deny a request for an interpreter? If the court advertises that interpreters are available in civil and small claims and can’t meet the demand, what are the expectations?</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>Recommendations 70, 71. Good cause and qualification procedures should be the same for civil as criminal. There should not be a different standard.</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>Under Recommendations 70 and 73, “good cause” for appointing a non-certified interpreter should be narrowly defined. As written, the description of the issue and the</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation</p>

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	<p>recommendation leave the impression that court labor issues, without more, can be good cause for using non-credentialed interpreters. This cannot be the case, because that exception would give any court good cause for not using credentialed interpreters at any time. We believe using current Rule 2.893 would prevent this from happening. However, the LAP should specify that court labor issues cannot be an independent basis for used non-credentialed interpreters.</p> <p>70. [*Proposed Language*] The Judicial Council should, under Government Code section 68564, establish procedures and guidelines for determining “good cause” to appoint non-credentialed court interpreters in civil matters. “Good cause” should be narrowly defined as extenuating circumstances in non-priority cases where the court must demonstrate in writing to the Language Access Coordinator an inability to provide a certified interpreter. The Implementation Committee and/or the LAOC must review these statements periodically to determine where courts are failing to provide certified interpreters.</p>	<p>will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p> <p>.</p>
<p>Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)</p>	<p>[*Recommendation No. 71*] See #70 above.</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.</p>
<p>41 Legal Services and Community Organizations (Position = AM)</p>	<p>73. [*Proposed Language*] The judicial council should sponsor legislation to amend Code of Civil Procedure section 116.50 dealing with small claims actions to reflect that interpreters in small claims cases must, as with other matters,</p>	<p>Recommendations 69 through 73 (former 70 through 74) are technical recommendations which work together to assure that the processes, rules, forms and legislation will all be in place to provide qualified interpreters in</p>

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	be credentialed except for a finding of good cause to appoint a non-credentialed interpreter. “Good cause” should be narrowly defined as extenuating circumstances in non-priority cases where the court must demonstrate in writing to the Language Access Coordinator an inability to provide a certified interpreter.	civil cases, including small claims. When a certified or registered interpreter is not available, good cause procedures and guidelines should be consistent with those required in criminal and juvenile matters.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 73*] If the court advertises that interpreters are available in civil and small claims and can’t meet the demand, what are the expectations? Rather than confusing the language with credentialed/qualified, why not just say certified, registered, or provisionally qualified interpreters? Credentialed sounds like another level or classification of interpreter.	Recommendation No. 72 (former No. 73) has been modified as follows: “The Judicial Council should sponsor legislation to amend Code of Civil Procedure section 116.550 dealing with small claims actions to reflect that interpreters in small claims cases should, as with other matters, be certified or registered, or provisionally qualified where a credentialed interpreter is not available.”
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding recommendation #75, which proposes increasing the number of days independent contractors can work per year: I propose that the law not be changed. If independent contractors want to work for the courts for more than 100 days, they can simply apply for employment under “F” status. This would make them employees, able to work as many days per year as they wanted to, while imposing no obligation on them to accept assignments. Because of this, it is unnecessary to make any changes to the Trial Court Interpreter Employment and Labor Relations Act. Attempts to change the law would be highly detrimental to interpreters, the courts and to LEP individuals. The Trial Court Interpreter Employment and Labor Relations Act was passed to provide secure employment and benefits to hundreds of interpreters who were acting as de facto public employees, as	Recommendation No. 74 (former No. 75) states that the Language Access Implementation Task Force (name TBD) should evaluate existing law, including a study of any negative impacts of the Trial Court Interpreter Employment and Labor Relations Act on the provision of appropriate language access services. Any recommendations by that committee to make changes to existing law will be made at a future time after study and evaluation.

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	well as to make the quality of interpreting more uniform and professional. The 100-day rule was put into the law to prevent widespread outsourcing interpreting services to the private sector that could be provided by court employees. The obvious solution to the need for more court interpreters is not to re-privatize interpreting services, but to hire more interpreter employees.	
California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)	<p>[*Recommendation No. 75*] The contracting out limitations in the Interpreter Act allow significant use of contractors and should not be changed. These restrictions support the employment system. If the courts have difficulty attracting and retaining enough interpreters this can better be addressed by creating a career path for young interpreters and improving working conditions and pay.</p> <p>We do not agree that the 100-day rule (limiting contractor use to 100 days per calendar per county) has a negative impact on courts' access to certified interpreters. In languages other than Spanish this is not an issue because the volume of work is such that contract interpreters will rarely hit that limit. Individual contractors can work in multiple counties and work full time for the courts by working in only three counties (241 work days per year). Moreover, a contractor who works 100 days in a single trial court is working nearly 50% time. These individuals do not have to stop working for the trial court; they have the option instead, under the law, to become as-needed employees and continue working in a manner that is very similar to contracting. They can continue working only as available, and the courts are not obligated to use them if there is not work. This flexibility in the employment system makes this a non-issue.</p> <p>The courts have not raised this as a problem in collective</p>	See response for Recommendation No. 74 (former No. 75).

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	bargaining. To the extent that there is a demonstrable problem with this limitation that affects the courts ability to access needed interpreters, however, the courts could seek relief on this issue in collective bargaining.	
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	[*Recommendation No. 75*] The 100-day limit on contractors may lead to a shortage of interpreters. By 100 days, most of them have already received a 45-day intermittent offer and they don't want to be an employee. At 100 days the court must stop using them. The contractor then accepts jobs in other counties – working anyway – and the other county often has to pay premium rates and/or mileage to get the interpreter. Overall it would be less expensive for the state if there were no limits. If someone doesn't want to be an employee, let them work as a contractor as needed. Not clear why the recommendation is to repeal CCP 116.550 and GC 68560.5(a), but only study the impact of GC 71802? The special provisions for certain categories of interpreters are a problem, recommend repealing the special interest provisions of this section as well.	No response required. Note that former Recommendation No. 75 is now Recommendation No. 74.
Diana Barahona, Court Interpreter, California Federation of Interpreters (Position = N)	Regarding recommendation #76, which proposes having LEP persons waive their right to an interpreter: I propose that no waivers of interpreter be allowed without counsel present. A person who doesn't have a lawyer and who doesn't understand English well (LEP) cannot make a knowing, intelligent and voluntary waiver of an interpreter. A waiver should only be allowed if the LEP individual has legal counsel present. That said, people previously identified as LEP who don't have lawyers present should be allowed to state to the court that they are, in fact, proficient in English, (which is not the same as waiving their right to an interpreter) that they understand everything that is going on and that they can express	Recommendation No. 75 (former No. 76) has been significantly revised: “75. The Implementation Task Force will develop a policy addressing an LEP court user’s request of a waiver of the services of an interpreter. The policy will identify standards to ensure that any waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel; and is approved by the appropriate judicial officer, exercising his or her discretion. The policy will address any other factors necessary to ensure the waiver is appropriate, including: determining whether an interpreter is necessary to ensure the waiver is made knowingly; ensuring that the waiver is entered on the record, or in writing if there is no official record of the proceedings;

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	<p>themselves clearly. Whether this is the case can be determined by the judicial officer, using the same standards used to find that jurors are proficient in English.</p>	<p>and requiring that a party may request at any time, or the court may make on its own motion, an order vacating the waiver and appointing an interpreter for all further proceedings. The policy shall reflect the expectation that waivers will rarely be invoked in light of access to free interpreter services and the Implementation Task Force will track waiver usage to assist in identifying any necessary changes to policy. (Phase 1).”</p>
<p>Indigenous Language Interpreters and Community Organizations (Position = AM)</p>	<p>Recommendation 76. Because of cultural norms and historical experience making do with only Spanish language interpretation, many indigenous language speakers could be easily swayed to waive their right to an interpreter in their language by the mere suggestion that they are permitted to do so. In developing a rule of court to allow for waiver of an LEP person’s right to an interpreter, the Judicial Council should explicitly ensure that the option to waive the right to an interpreter must always be presented to an LEP person in his or her preferred language. In enforcing such a rule, judges, court staff, and interpreters should be sensitive to the risk of unintentionally persuading an indigenous language speaker to waive his or her right to an indigenous language interpreter and receive training on how to avoid such an outcome.</p>	<p>Recommendation No. 75 (former No. 76) provides for development of a policy that would include judicial discretion in granting or denying a waiver (see above).</p>
<p>Superior Court of Los Angeles County (no name provided) (Position = AM)</p>	<p>[*Recommendation No. 76*] As demonstrated above, LASC shares many of the strategic directions laid out in the Plan. However, we have a significant disagreement with the following: “The Judicial Council should develop a rule of court establishing a procedure by which LEP persons may, at any point, be allowed to waive the services of an interpreter so long as the waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel (if any); and is approved by the appropriate judicial officer, exercising his or her discretion. At any later point in the proceedings, the LEP</p>	<p>Recommendation No. 75 (former No. 76) provides for development of a policy that would include judicial discretion in granting or denying a waiver (see above).</p>

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	<p>person may, by a showing of good cause, request an order vacating the waiver and appointing an interpreter.” This decision is best made by the judge assigned to the case in light of case law and the facts of the case, rather than through court rule.</p>	
<p>California Federation of Interpreters, by Mary Lou Aranguren, CFI Legislative Committee Chair (Position = AM)</p>	<p>[*Recommendation No. 76*] In our experience, judges routinely accept interpreter waivers in criminal matters without an understanding that having an LEP person proceed in a case without an interpreter has serious due process implications. Attorneys regularly waive their client’s right to an interpreter without knowledge or understanding of case law that requires waiver of the constitutional right to an interpreter in criminal matters must be personal, knowing, intelligent and voluntary.</p> <p>Waiving the right to an interpreter without an interpreter to take the waiver begs the question as to how a knowing and personal waiver can be made without an interpreter to ensure the LEP court user fully understands.</p> <p>We are concerned about institutionalizing this practice by providing procedures that, similar to the good cause clause, may become a routine method of circumventing language access requirements. LEP persons generally do not understand their language access rights in the first place, and can easily feel pressured to “cooperate” with authorities and proceed without full understanding. In reality, judicial officers and attorneys often place greater value on expediency and convenience than on protecting language access rights. LEP persons likewise may value convenience or wish to avoid delays and may be willing to sacrifice full understanding or participation. This is not necessarily in the interest of the other parties or the court itself, since all parties have an interest in sound decisions being made based on a clear understanding of</p>	<p>See above for Recommendation No. 75 (former No. 76)</p>

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	the facts and evaluation of the credibility of all information provided to the court.	
41 Legal Services and Community Organizations (Position = AM)	<p>Under Recommendation 76, the LAP should not require good cause or a request to “vacate the waiver” for a litigant to change his or her mind and request an interpreter following a waiver. LEP litigants have a right to an interpreter and that must be allowed at any time regardless of any prior waiver, especially given the possibility that a litigant may not realize the severity of the need for an interpreter until actively trying to navigate proceedings without one.</p> <p>76. [*Proposed Language*] The Judicial Council should develop a rule of court establishing a procedure by which LEP persons may, at any point, be allowed to waive the services of an interpreter so long as the waiver is knowing, intelligent, and voluntary; is made after the person has consulted with counsel (if any); and is approved by the appropriate judicial officer, exercising his or her discretion. At any point later in the proceedings, the LEP person may rescind the waiver and request an interpreter.</p>	Recommendation No. 75 (former No. 76) has been revised and the requirement of good cause to vacate the waiver has been deleted.
Superior Court of Orange County, Alan Carlson, Court Executive Officer (Position = AM)	<p>[*Recommendation No. 76*] Questions: Who has determined that the person is LEP? The court? A clerk? Is this only for instances when an LEP party has asked for an interpreter and then changes their mind and the court wants to ensure that they are knowingly giving up their rights? Why would you need an order vacating the waiver? Wouldn't the minutes indicate the party requests an interpreter, and one would be appointed? From then on, the case would be flagged for an interpreter, unless the person waives one again.</p> <p>For consistency should the waiver be drafted so that all judicial officers use the same wording? Would this be at a state or local</p>	Recommendation No. 75 (former No. 76) has been significantly revised, and charges the Implementation Task Force with developing a policy for waiver of a court interpreter by a LEP court user (see above).

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	level? There was no discussion of waiver in the body of the report	
California Commission on Access to Justice, Hon. Ronald B. Robie, Chair (Position = AM)	<ul style="list-style-type: none"> Implementation of the Strategic Plan should be swift. The Commission commends the Joint Working Group for proposing that Phase I of the Plan be implemented in 2015, and that the courts “will provide language access in all court matters by 2020.” As the Commission’s report <i>Language Barriers</i> noted nearly a decade ago, “(t)he starkest consequence of linguistic barriers to the courts is simply that justice is unavailable.” 	No response required.
Legal Aid Association of California (Position = AM)	<p>There must be no unnecessary delay in creating the statewide Language Access Implementation Advisory Committee. LAAC is concerned, as stated in the collaborative comments, that there is no deadline for the creation of the Language Access Implementation Advisory Committee (LAIAC). We urge the Judicial Council to adopt a firm and immediate deadline so that no further work is delayed by the process of creating the LAIAC. The LAP has overly generous deadlines and includes in later phases many recommendations that we believe should be implemented in Phase I. In addition, even the Phase I recommendations could be unnecessarily delayed if local courts wait to act until the LAIAC is created, meets, and makes specific recommendations or requirements.</p> <p>The LAP must require statewide and local or regional Language Access Oversight Committees. As written, the plan requires an implementation committee, but not a committee that would oversee ongoing policies and procedures in action after the implementation plan is adopted by the LAIAC. LAAC believes that separate bodies are necessary to monitor local court procedures and make local recommendations to meet the</p>	<p>It is the intent of the JWG that Recommendation No. 60 (former No. 61) regarding the creation of a Language Access Implementation Task Force, slated for Phase 1, be implemented immediately upon approval of this plan by the Judicial Council.</p> <p>The specific makeup and duties of the Language Access Implementation Task Force will be determined when the Chief Justice makes her appointments. The JWG added brief language to Recommendation No. 60 to clarify that the Implementation Task Force membership should include representatives of the key stakeholders in the provision of language access services in the courts, including, but not limited to, judicial officers, court administrators, court interpreters, legal services providers, and attorneys that commonly work with LEP court users.</p>

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	<p>specific needs of their constituents. Legal services organizations will be instrumental in helping to identify additional manuals, documents, and other resources for those needing interpreters to access court services. The local Language Access Oversight Committees (LAOC) should monitor the complaints received to identify larger systemic problems submitted by court users via the complaints.</p> <p>Legal services representatives must have dedicated membership on all committees with implementation and monitoring roles for the LAP. Having committee members who are knowledgeable about the challenges faced by low-income LEP Californians attempting to access the courts is extremely important. LAAC believes that the easiest way to ensure this is to have legal services representation on the LAIAC and statewide and local LAOCs. LAAC believes it is important to have at least two representatives so that a richer set of perspectives are represented in the committees. Additionally, legal services representatives, as shown by the collaborative comment, are extremely knowledgeable about availability of data, potential sources of additional funding, and the importance of the ultimate long-term success of the goals of this plan.</p>	

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Mental Health Issues Implementation Task Force

[Print](#)

Start Date: January 1, 2012

The Mental Health Issues Implementation Task Force is charged with identifying the recommendations under Judicial Council purview, and with developing a plan for judicial branch and interbranch implementation activities to improve court, criminal justice and mental health services outcomes for adults and juvenile offenders with mental illness, ensure fair and expeditious administration of justice, and promote improved access to treatment for litigants in the justice system.

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The Judicial Council's Mental Health Issues Implementation Task Force advises the council on implementation of the key recommendations issued by the [Task Force for Criminal Justice Collaboration on Mental Health Issues](#) (July 2007-June 2011). The Mental Health Issues Implementation Task Force is charged with identifying the recommendations under Judicial Council purview, and with developing a plan for judicial branch and inter-branch implementation activities. Implementation of the task force recommendations is designed to improve court, criminal justice and mental health services outcomes for adults and juvenile offenders with mental illness, ensure fair and expeditious administration of justice, and promote improved access to treatment for litigants in the justice system.

[Fact Sheet](#)
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The Judicial Council's Mental Health Issues Implementation Task Force advises the council on implementation of the key recommendations issued by the Task Force for Criminal Justice Collaboration on Mental Health Issues (July 2007-June 2011).
[Final Report April, 2011](#)
[Report to the Judicial Council](#) by the Task Force for Criminal Justice Collaboration on Mental Health Issues, March 22, 2011

[Link to a related News Release](#)
[Fact Sheet](#) for the Task Force for Criminal Justice Collaboration on Mental Health Issues
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Support for this publication was provided by the California Governor's Office of Emergency Services (Cal OES) through Grant Award Number CW13121535, awarded to the Administrative Office of the Courts. Points of view in this document are those of the author and do not necessarily represent the official position or policies of Cal OES.

FACT SHEET

March 2014

Violence Against Women Education Project

Domestic violence, sexual assault, stalking, and teen dating violence are critical issues facing family, criminal, and juvenile courts in California. The Violence Against Women Education Project (VAWEP) is an initiative designed to provide tribal and state courts with information, equipment, technical assistance, educational materials, and programs on the role of the courts in responding to cases involving these issues. VAWEP is a project of the Center for Families, Children & the Courts (CFCC) of the Judicial and Court Operations Service Division, Administrative Office of the Courts, the administrative agency for the Judicial Council of California. The project is being implemented in collaboration with the Office of Education/Center for Judiciary Education and Research (CJER) and is funded by the California Governor's Office of Emergency Services (Cal OES) with resources from the federal Office on Violence Against Women (OVW). The project's planning committee, composed of a tribal court judge, who also serves as a liaison to the Tribal Court-State Court Forum (forum), and state judicial officers, prosecutors, defense attorneys, attorneys with expertise in the field of domestic violence, victim advocates, and other experts, guides the project staff in identifying key areas of focus and developing appropriate educational programming. The statewide domestic violence needs assessment, conducted as part of the Native American Communities Justice Project, also informs the work of VAWEP.

Project Goals

The goals of VAWEP are to:

- Identify primary educational and informational needs of the courts on domestic violence, sexual assault, stalking, and teen dating violence issues;
- Initiate new judicial branch educational programming pertaining to domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse issues, including the delivery of regional training events and the enhancement of existing programming;

- Develop distance learning opportunities for judicial officers and court staff relating to court procedure and policy in the areas of domestic violence, sexual assault, stalking, and teen dating violence;
- Develop and compile useful information for the courts on domestic violence, sexual assault, stalking, and teen dating violence issues that relates specifically to California state and tribal law and federal Indian Law;
- Institutionalize inclusion of domestic violence, sexual assault, stalking, and teen dating violence issues in all relevant judicial branch education curricula, programs, and publications;
- Create incentives to increase attendance and participation in judicial branch education relating to domestic violence, sexual assault, stalking, and teen dating violence;
- Increase communication among state and tribal courts about best practices in domestic violence, sexual assault, stalking, and teen dating violence cases;
- Provide jurisdiction-specific technical assistance on domestic violence, sexual assault, stalking, and teen dating violence issues of greatest importance to local courts;
- Create educational tools that aid in the administration of justice for self-represented litigants in domestic violence cases;
- Purchase computer or audio visual equipment for court-specific domestic violence-related projects; and
- Support efforts to enhance access to and improve the administration of justice for Native American victims of domestic violence, sexual assault, stalking, and teen dating violence.

Judicial Education on Domestic Violence

Effective January 1, 2010, the Judicial Council adopted rule 10.464 of the California Rules of Courts to provide for education on domestic violence for state court judges, commissioners, and referees. The rule:

- Requires participation in appropriate education on domestic violence issues by each judicial officer who hears matters in criminal, family, juvenile delinquency, juvenile dependency, or probate court, and in addition, for

those with primary assignments in these areas, participation in periodic updates; and

- Requires inclusion of domestic violence issues in courses at the Judicial College and in primary assignment courses for both new and experienced judicial officers.

The VAWEP project provides live statewide programs, local programs, and distance-learning opportunities so that judges, commissioners, and referees have diverse ways to fulfill the requirement of the rule.

The forum makes recommendations to the project's planning committee about content on federal Indian law and its impact on state courts. To promote the collaboration between the project's planning committee and the forum, a tribal judge, who is a forum member, serves as liaison between the two groups.

Educational Events and Technical Assistance

[Please note that when workshops or programs have been planned, course descriptions are provided. For some events, descriptions are not yet available.]

Beyond the Bench Conference (December 2013)

The project features a series of domestic-violence related courses at the Beyond the Bench Conference. This is a multidisciplinary conference of judicial officers, court professionals, mediators, attorneys, evaluators, probation officers, mental health workers, Court Appointed Special Advocates, social workers, Child Custody Recommending Counselors, self-help staff, educators, psychologists, practitioners, youth, and others working with families and children coming to court to address and discuss problems affecting the populations served.

Workshops include:

Youth Violence in the Home: Building Respectful Family Relationships. Youth violence against parents, grandparents, and other care providers is an increasing problem in juvenile court. How can the juvenile court intervene in these cases in a way that protects victims, youth, and families and improves outcomes? This workshop explores the limited research on this issue, identifies ways in which the issue arises in court proceedings, and covers possible successful interventions.

Domestic Violence & the Teen Brain: Maximizing Toward Complexity. This workshop provides an overview of the rapid changes that are occurring in adolescent brains, explores how teens' neurobiology may be impacted by

exposure to domestic violence in their families, and identifies parental behaviors and family environments that may increase or decrease risk for the intergenerational transmission of violence.

Avoiding Conflicting Services and Orders in Domestic Violence Cases. This workshop provides an overview of the various branches of law and jurisdictional issues related to domestic violence cases to facilitate understanding of the various systems and avoid conflicting orders and underscores the importance of networking with courts in other counties and with key service providers to identify and utilize available resources effectively.

Domestic Violence in Dependency Matters: Insights into Decision Making. This course, a two-part seminar, permits participants to attend either or both sessions. The first session outlines recent research findings on how child welfare professionals screen for and assess the impact of domestic violence on children in California. The second session analyzes recent cases in which exposure to domestic violence was alleged as being harmful to a child, and current best practices for responding to these cases.

Turning Trafficking Victims into Survivors. This session provides resources for judges, social workers, community advocates, and attorneys to identify and help victims of sex trafficking in California. San Mateo Superior Court Judge Elizabeth Lee, chair of the juvenile working group of the California Collaborative Justice Advisory Committee, provides a brief introduction to the topic and the panel, and panelists discuss their work with victims of sex trafficking and how stakeholders can assist trafficking victims in their capacity. Although several types of trafficking occur in California, this panel focuses on sex trafficking.

*Plenary Speaker. Carissa Phelps, Author, **Runaway Girl: Escaping Life on the Streets, One Helping Hand at a Time**, Chief Executive Officer, Runaway Girl, FPC.* This session was designed to provide information on the existence and implications of sex trafficking and to identify contributing factors to the rise of sex trafficking in the United States. Ms. Carissa Phelps, the featured speaker, graduated with both a law degree and MBA from UCLA. She shares her personal experience of being a twelve-year old homeless runaway forced into prostitution. The session also features a short documentary about Carissa's journey.

Commercially Sexually Exploited Children in California: Strategies to Support and Serve Our Most Vulnerable Youth. Children are targeted and sold for sex by exploiters and pimps each night in California. Often these children go

unnoticed by lawyers, judges, social workers, and probation officers. This workshop explores the dynamics of exploitation, outlines risk factors and warning signs, provides strategies to engage exploited youth, and introduces promising prevention and intervention models to better serve and support our most vulnerable children.

Primary Assignment Orientation Courses, Criminal Assignment Courses, and other Related Events

VAWEP develops, staffs, and sponsors a series of in-depth courses on domestic violence, sexual assault, stalking, teen dating violence, and elder abuse issues that are integrated into these showcase programs of CJER.

Primary Assignment Orientation Courses

The AOC offers week-long programs in family law, juvenile law, criminal law, and probate designed for judicial officers new to the relevant assignment. The Primary Assignment Orientation courses are designed to satisfy the content-based requirements of rule 10.462(c)(1)(B) of the California Rules of Court applicable to new judges and subordinate judicial officers. The courses also satisfy the expectations and requirements of rule 10.462(c)(4) applicable to experienced judges and subordinate judicial officers new to, or returning to, an assignment. The VAWEP project has developed components on domestic violence issues for each of these programs. Generally the Family Law Primary Assignment Orientation includes components on the effects of domestic violence on children and an overview of domestic violence law. The Criminal Law Primary Assignment Orientation includes a segment on criminal procedure in domestic violence cases. The Juvenile Law Primary Assignment Orientation includes a course on the effects of domestic violence on children in dependency and delinquency proceedings. The Probate Law Primary Assignment Orientation offers a segment on civil protective orders for elderly adults. The following orientation courses are offered during the grant cycle:

- | | |
|--------------|--|
| January 2014 | Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
Probate Law Primary Assignment Orientation
Juvenile Law Primary Assignment Orientation (Delinquency)
San Francisco |
| June 2014 | Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
Long Beach |

September 2014 Criminal Law Primary Assignment Orientation
Family Law Primary Assignment Orientation
Juvenile Law Primary Assignment Orientation (Dependency)
San Francisco

Continuing Judicial Education: Criminal Assignment Courses

CJER develops and implements programming designed to satisfy the content-based expectations of California Rules of Court, rule 10.462(c)(4) for experienced judges returning to a criminal assignment and to others seeking hours-based continuing education under rule 10.452(d). The following courses will be offered during the grant cycle:

March 2014 Handling Sexual Assault Cases
San Francisco
Sexual assault cases require the judge to be familiar with a unique body of substantive and procedural law that is not necessarily applicable in other criminal cases. The judge must also be aware and understand the dynamics of sexual assault cases, the needs of the victim and specially mandated accommodations, and myths and misconceptions about sexual assault victims and offenders. This two-day course emphasizes these key issues and guides the judge through managing a sexual assault trial from arraignment to sentencing and postsentencing procedures.

June 2014 Domestic Violence and Immigration
Long Beach
This course focuses on the special problems related to immigration issues in criminal, family, and juvenile domestic violence cases. Immigration issues increasingly affect judicial decision making, the nature of the information presented to the court, and safety issues in domestic violence cases. The course provides a broad overview of the elements of immigration law that may affect decisions in these cases and an understanding of the challenges facing victims of domestic violence as a result of the immigration concerns and status of the parties.

Judicial Institutes (October, April-May, and May-June 2014)

VAWEP courses are included as part of the Probate and Mental Health Institute in October 2013, the Criminal Law Institute in April-May 2014, and the Cow County

Judges Institute in May-June 2014. These institute trainings and educational events provide information specific to target audiences.

Probate and Mental Health Institute (October 2013)

The Probate and Mental Health Institute serves as the primary venue for judicial education on probate matters, including decedents' estates, probate conservatorships and guardianships, trusts, elder abuse, and mental health proceedings. A description of the workshop follows:

Elder Abuse. This course is designed to enhance judicial officers' skills and abilities to respond to issues involving physical, emotional, and financial abuse of elders. The primary focus of the course will be probate and conservatorship issues in elder abuse cases. The course will cover forms of abuse of older adults, the characteristics of victims and perpetrators, family dynamics, undue influence, selected restraining order issues, and accommodating the needs of elders in court.

Criminal Law Institute (April-May 2014)

The Criminal Law Institute is designed to meet the needs of both judges and judicial officers new to a criminal law assignment, and those with greater experience. A series of workshops for this audience will be presented at the institute.

Cow County Judges Institute (May-June 2014)

The Cow County Judges Institute provides an opportunity to present courses to rural judges in an environment that allows for discussion of substantive and procedural law and their unique features in a rural setting. A series of workshops for this audience will be presented at the institute.

Ethics and Self-Represented Litigants in Domestic Violence Cases (January 2014)

This 1.5-day course focuses on general judicial ethics issues that arise in domestic violence cases such as disqualification, disclosure, ex parte communication, and community outreach, as well as application of the canons of ethics in the context of the increasing numbers of self-represented litigants that judicial officers are seeing in domestic violence cases. The course provides an opportunity to demonstrate and practice demeanor and communications skills during a videotaping and feedback session. A workshop on the nuts and bolts of California restraining order law precedes the course.

Domestic Violence Judicial Institute (May 2014)

The project uses an interdisciplinary curriculum developed by the National Council of Juvenile and Family Court Judges and Futures Without Violence (formerly the Family Violence Prevention Fund) to present an educational institute based on the curriculum. The institute includes workshops on fact-finding, judicial officers' roles in a community response to domestic violence, fairness and cultural issues in domestic violence cases, decision-making skills and enforcement, victim behavior, and perpetrator behavior. The institute also includes sessions designed to engage judicial officers in practical courtroom exercises addressing the complexity of domestic violence cases and the specific issues facing California courts.

The project offers a pre-institute workshop to address the “nuts and bolts” of California law in domestic violence cases. The pre-institute workshop provides a judge new to a criminal or family law assignment with the basics of domestic violence cases, focusing on common errors, unique features, and “hot spots.” Issues arising in criminal domestic violence cases include emergency protective orders, pretrial release and bail, criminal protective orders issued both pretrial and as a mandatory condition of probation, sentencing, review hearings, and probation violations. Issues related to family law include statutory requirements for restraining orders, firearms issues, and cross-over issues such as avoiding conflicting orders.

Domestic Violence: What Everyone New to the Bench Should Know, Judicial College (August 2014)

A course on issues of domestic violence is part of the nationally recognized B. E. Witkin Judicial College of California, a program providing comprehensive education for all new superior court judges, commissioners, and referees. The course provides background information on domestic violence and is mandatory for all program participants as required by Government Code section 68555. A description of the course follows:

Domestic Violence: What Everyone New to the Bench Should Know. By the time any judge completes five years on the bench, he or she will have presided over several cases involving domestic violence issues. Many judges will have handled dozens of these cases; some daily, some weekly, some yearly. This course explores the complexities confronting judicial officers handling domestic violence cases and promotes an understanding of victim and perpetrator dynamics, recanting witnesses, effects of domestic violence on children, and ways to assess risks of dangerousness and lethality. Judges will acquire knowledge of the varying legal standards and technical requirements in different case types, including criminal law, family law, juvenile law and

occasionally other proceedings. Faculty will present information and conduct interactive discussions to better prepare the judicial officer new to the bench for these difficult and important cases.

Domestic Violence Safety Partnership Program (Ongoing in 2013-2014)

Under the auspices of the Domestic Violence Safety Partnership (DVSP) project, VAWEP provides targeted, local technical assistance to applicant courts that have an identified need for training. DVSP distributes a self-assessment tool that enumerates required procedures and recommended practices and provides training and technical assistance based on the issues identified. In the past, VAWEP has received many requests from courts about specific information needs, which can range from understanding warning signs for lethality in domestic violence cases to improving communication between the many types of courts that may be involved in a particular case. To date, DVSP has provided to trial courts more than 88 instances of technical assistance or local educational support.

The project provides experts whose specialties vary based on the need of the specific court. This assistance is accomplished by delivering a substantive expert to speak to the issues at hand, providing speakers at AOC trainings with expertise in issues related to violence against women, or facilitating a peer-mentoring meeting in which courts come together to learn about individual best practices. Recipients of this assistance are asked to evaluate what they have received. Assistance can also include purchasing audio visual and technological equipment that courts may use to enhance the administration of justice in domestic violence and related cases.

Collaboration with the AOC's Office of Education on Local Training and Distance Learning

The project continues to join with the AOC's Office of Education/Center for Judiciary Education and Research (CJER) to offer local judicial education on domestic violence, sexual assault, stalking, teen dating violence, human trafficking, and elder abuse. In 2010 CJER launched an initiative to enhance the ability of local courts to provide high-quality judicial education for bench officers. Courts can locally host judicial education classes simply by selecting the course from the course catalog. The courses range in duration from 1.5 to 3 hours. Local education minimizes time away from the bench and eliminates most travel expenses. The catalog currently contains twenty-one domestic violence related courses, including the following titles:

- Handling Elder Abuse Issues
- Restraining Orders in Elder Abuse Cases
- Adjudication of Stalking Cases

- Stalking in Cyberspace: What a Judge Needs to Know
- Batterer Intervention Programs: What We Know and What We Need to Know
- Beyond the Basics: An Overview of Domestic Violence Cases and Protective Orders
- Domestic Violence and Ethics
- Domestic Violence and Fairness Issues
- Domestic Violence and Tribal Communities Cross-Jurisdictional Issues
- Evaluating the Effects of Domestic Violence on Children
- Immigration Issues in Criminal Domestic Violence Cases
- Restraining Orders in Multiple Court Settings
- Assessing Dangerousness in Criminal Domestic Violence Cases
- Domestic Violence and Custody—Assessing the Risk
- Domestic Violence Issues in Family Law Cases
- Domestic Violence Issues in Juvenile Cases
- Ethics and Self-Represented Litigants in Domestic Violence Cases
- Handling Sexual Assault Cases
- Reasonable Efforts in Dependency Cases Involving Domestic Violence
- Science of Aging
- Stalking Cases and Court Security

Curriculum Development and Publications

VAWEP distributes the following curricula, publications, and other resource materials:

Update Existing Bench Guides, Publications and Other Resources (Ongoing in 2013-2014)

The project plans to draft revisions and post online a revised edition of the Judges Guide to Domestic Violence Cases, the Domestic Violence in Dependency Cases: A Judges Guide, and update other existing guides, manual, bench books, and resources as appropriate.

Judges Guide to Domestic Violence Cases—(To be revised in 2014)

VAWEP updates the judges' guide as needed. This practical judges' handbook covers the following components:

- Emergency Protective Order (EPO) Quick Reference Guide
- California Protective Orders
- Firearms and Full Faith and Credit
- Immigration and Domestic Violence
- Stalking

The five components of this guide have been consolidated into one volume for easy reference and accessibility. They can also be used separately and are updated separately. Each component focuses on the information, case law, and statutes that judicial officers need to know in the relevant subject area. Revisions to any component of the guide are posted on a Web site designed for judicial officers. The project plans to revise the Emergency Protective Order (EPO) Quick Reference Guide, California Protective Orders, and Firearms and Full Faith and Credit components of the Judges Guide to Domestic Violence Cases.

Domestic Violence in Dependency Cases: A Judges Guide (To be revised in 2014)

This guide provides judges with a reference tool on the impact of domestic violence in dependency cases and includes a detailed discussion of juvenile court protective orders. The guide addresses the effect of domestic violence on children, how domestic violence may affect parenting, safety considerations for the court, "reasonable efforts" requirements, and the interaction between juvenile court protective orders and those issued by other courts. The project plans to revise this bench guide during the grant year.

New -Judges Guide on Handling Elder Abuse Cases (Ongoing in 2013-2014)

The project plans to post on-line three modules of a stand-alone bench guide for judges on elder abuse cases, based on an outline completed during the last grant year. The modules will explain the legal issues related to elder abuse and will help judicial officers make effective and appropriate orders and decisions in these cases. One chapter will focus on tribal elder abuse and cross-jurisdictional issues. The bench guide will prove especially helpful because the law in this area is particularly complex and judicial officers have noted a need for more information in this area.

Annual Report and Fact Sheet

Project staff develops an updated annual report and this fact sheet to highlight key efforts the project has undertaken as well as judicial and court responses to those

efforts. These documents are distributed to provide project information to judicial branch professionals and the public. As educational tools, they focus on suggested practices and innovative approaches.

Tribal/State Activities

In response to the recommendations to the AOC to share educational resources between the state judicial branch and the tribal justice systems and to incorporate content on federal Indian law and its impact on state courts into judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials, the AOC implements the following tribal/state projects relating to domestic violence and elder abuse cases:

Educational Programs

Cross-Court Educational Exchanges (Ongoing in 2014)

The project plans to continue the dialogue started as part of the Native American Communities Justice Project (NACJP) by conducting two cross-court educational exchanges. The exchanges, judicially led by the host judges (one tribal court judge and one state court judge), are conducted on tribal lands. At the exchanges, judges utilize a checklist of problems and solutions identified by the NACJP participants to discuss and problem-solve together local justice systems' concerns relating to domestic violence, sexual assault, stalking, teen dating violence, and elder abuse. The host judges invite tribal leadership and local county and tribal professionals who work in the fields of child welfare, juvenile and criminal law, education, mental health, probation, social services, victim and other supportive services.

P.L. 280 Training (March 4, 2014)

The forum cochairs plan to conduct an all-day course open to all tribal and state court judges in California. The training will provide a better understanding of the impact of this federal law on state courts, an overview of ways to identify barriers facing native victims when trying to leave an abusive relationship, information about tribal justice system approaches to perpetrators, an exploration of inter-jurisdictional issues relating to recognition and enforcement of tribal protective orders, and a presentation on models of information-sharing and inter-court collaboration.

**Improving Access to Tribal and State Courts in Domestic Violence Cases
Confronting Ethical Issues and Unveiling Differences (March 2014)**

This workshop at the California Conference on Self-Represented Litigants compares what court self-help and other staff can and cannot do to assist self-represented litigants in tribal and state courts. It also explores how tribal communities look to intervention strategies that are designed to keep victims safe and assist native perpetrators through facilitators who have been trained by cultural mentors who have cultural knowledge and expertise in customs, traditions, spirituality and lifeways of their specific tribal nation. Topics also include information about tribal and non-tribal services for respondents in domestic violence cases and an exploration of ethical issues and positive and negative group biases that includes a discussion of case scenarios. The course assists participants to improve access to the court and court and court-connected services.

Elder Abuse Projects (Ongoing in 2013-2014)

Adapt Judicial Council Forms Relating to Elder Abuse for Use by Tribal Courts

In response to requests from tribal courts, the project shares forms so that tribal courts can adapt them for their use. If tribal courts are willing to share their adapted forms, the project makes them available online for state and tribal courts.

New Chapter on Tribal Elder Abuse for Judicial Benchbook

The project plans to develop and post on-line one new chapter of a bench guide for judges on elder abuse cases. The chapter will explain the legal cross-jurisdictional issues related to tribal elder abuse and will help judicial officers make effective and appropriate orders and decisions in these cases.

Adapt the “Comings and Goings” exercise produced by the National Clearinghouse on Elder Abuse in Later Life to Explore the Dynamics of Elder Abuse in Tribal Communities

The project plans to develop a new exercise designed for a judicial audience that can be used with tribal and non-tribal professionals working in elder abuse/adult protective services, aging services, social services, justice, and health care.

Consult on the Uniform Adult Guardian and Protective Proceedings Jurisdiction Act (UAGPPJA)

The project plans to work with the California Law Review Commission staff to assist them in understanding the cross-jurisdictional issues relating to the UAGPPJA. This project provides assistance in drafting revisions to address the unique jurisdictional

challenges faced by tribal courts and state courts in California. The objective of this project is to help ensure that the legislative proposal submitted to the California Legislature meets the needs of tribal elders who may have conservatorships issued in both tribal and state courts in California.

Further Information

For additional information about VAWEP activities, please contact:

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Rules Modernization Project



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MEMORANDUM

Date

October 23, 2013; revised May 27, 2014

Information only

Please review

To

Projects Subcommittee of the Court
Technology Advisory Committee

Deadline

N/A

From

Patrick O'Donnell
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Subject

Remote Access to Court Proceedings:
Background and Opportunities

Overview

The expanded use of remote access offers opportunities not only for greater public access but also for potential savings for parties, their attorneys, and the courts. Hence, this is a promising area for exploration.

Some past undertakings such as the authorization of videoconferencing in the appellate divisions and telephone appearances in civil cases have been very successful; other proposals such as using videoconferencing in criminal cases have had more limited success; and still others such as the program for remote video appearances in traffic infraction cases are still at the pilot stage. It is useful to consider the courts' experiences with remote access because these provide guidance and ideas on where it may be best to focus future efforts.

This memorandum summarizes some previous and current efforts relating to the use of videoconferencing and other technologies permitting remote appearances in the courts. It

provides information about the statutes, rules and forms that presently support the use of remote video technology in the courts.

Remote Video Appearances

Videoconferencing for Oral Arguments in the Appellate Division of the Superior Court

A successful initiative to promote the use of videoconferencing technology has been adopted for the appellate divisions of the superior courts. Effective January 1, 2010, rules 8.885 and 8.829 were amended to authorize the conduct of oral arguments in the appellate division by videoconference.

The videoconferencing of oral arguments may be initiated by local rule or by order of the presiding judge on application of any party or on the court's own motion. The rules prescribe the procedures to be followed if parties are permitted to appear at oral argument by videoconferencing.

See rule 8.885 (on oral argument in limited civil and misdemeanor appeals) at www.courtinfo.ca.gov/cms/rules/index.cfm?title=eight&linkid=rule8_885

See rule 8.929 (on oral argument in infraction appeals at www.courts.ca.gov/cms/rules/index.cfm?title=eight&linkid=rule8_929

The Judicial Council report on these rule amendments explains that the use of videoconferencing for oral argument can save judicial time and court resources. (See report at: www.courts.ca.gov/documents/102309itema6.pdf)

Because this successful appellate division project concerns the use of videoconferencing for oral arguments, it is different from some of the other projects described in this memorandum that relate to hearings at which witnesses may appear and testimony may be taken.

Appearances by Videoconference or Teleconference in Title IV-D Child Support Cases

Under rule 5.324, upon request, the court in its discretion may permit a telephone appearance in any hearing or conference related to an action for child support when the local child support agency is providing services under title IV-D of the Social Security Act. "Telephone appearance," as used in the rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means. The rule establishes the procedures for requesting and opposing telephone appearances and for providing notice of the court's decision whether to permit such an appearance.

A telephone appearance is not permitted, however, for any of the following except as permitted by Family Code section 4930:

(1) Contested trials, contempt hearings, orders of examination, and any matters in which the party or witness has been subpoenaed to appear in person; and

(2) Any hearing or conference for which the court, in its discretion on a case-by-case basis, decides that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

See rule 5.324 at www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_324

Appearances at Family Centered Case Resolution Conferences

On the court's initiative or at the request of parties, to enhance access to the court, a family centered case resolution conference may be held in person, by telephone, by videoconferencing, or by other appropriate means of communication. Family centered case resolution conferences are scheduled with parties, attorneys, and a judicial officer to develop and implement a family centered case resolution plan. These conferences are not intended to be evidentiary hearings.

See rule 5.83: www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_83

Video or Telephone Appearances by Incarcerated Parents in Dependency Cases

In 2010, the Legislature enacted AB 12 and SB 962 that allow incarcerated parents to appear at hearings by telephone or videoconference in proceedings concerning termination of parental rights or seeking to adjudicate the child of a prisoner a dependent child of the court. (See http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=200920100AB12&search_key words= and www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0951-1000/sb_962_bill_20100929_chaptered.pdf) The legislation provides that these proceedings may not be adjudicated without the physical presence of the parent unless the court receives a knowing waiver from the parent of his or her right to be physically present at the proceedings, or an affidavit signed by a person in charge of the incarcerating institution that the prisoner does not intend to appear at the proceeding.

To implement this legislation, effective January 1, 2012, the Judicial Council amended rule 5.530 and adopted rule 5.531 to set minimum standards for procedures governing the telephone appearance of a party in the juvenile court proceedings. (See Judicial Council report at: www.courts.ca.gov/documents/ItemA23.pdf.)

See rule 5.530 at www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_530

See rule 5.531 at www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_531

The council also revised an order, form JV 450, and adopted a prisoner's statement, form JV-451, for use in connection with these proceedings.

See form JV-450 at www.courts.ca.gov/documents/jv450.pdf

See form JV-451 at www.courts.ca.gov/documents/jv451.pdf

The 2010 legislation raised some issues about how the videoconferencing or teleconferencing was to be funded. To address this financial problem, before SB 962 was finally enacted, a section was added that provides that the Department of Corrections and Rehabilitation is authorized to accept donated materials and services related to videoconferencing and teleconferencing in order to implement a program, at a prison to be determined by the department, to facilitate the participation of incarcerated parents in dependency court hearings regarding their children. The bill states that the implementation of this program is contingent upon the receipt of sufficient donations of materials and services by the department.

If there is an interest in pursuing other videoconferencing or teleconferencing programs similar to the one in SB 962, it makes sense to collect more information about how well the program has worked out. So far, based on an October 2013 report, there have been only a few videoconference hearings in Los Angeles pursuant to this legislation. The main obstacle has not been money but the scheduling of hearings to minimize prison staff time. Efforts are reportedly being made to move forward in this area.

Remote Video Appearances in Civil Cases

There presently are no rules or code sections specifically addressing remote video appearances in civil cases.¹ But with the consent of the parties, courts have sometimes permitted witnesses to appear remotely. This is a superior method of appearing to videotaped deposition testimony; it allows for real time direct examination and cross examination of witnesses. Video appearances can save money for the parties. And it can allow for more flexible and efficient scheduling of testimony.

When CTAC surveys courts about their use of remote video technology, it should collect information about the use of remote video appearances in civil cases.

Remote Appearances by Prisoners in Civil Cases

Some members of the Civil and Small Claims Advisory Committee have suggested that legislation should be considered that would authorize prisoners appear by videoconferencing in civil cases. The cost and time consumed in transporting prisoners to court appearances has been a problem in their courts and for the sheriffs' departments. The discussions about possible legislation have included consideration of possible financing problems, similar to those encountered in connection with SB 962, discussed above.

¹ However, there are both statutes and rules on telephone appearances at hearings and conferences in civil cases, as discussed further below.

Remote Video Appearances in Criminal Cases (Non-Traffic)

Current law

Under Penal code section 997, “[t]he court may permit the initial court appearance and arraignment of defendants held in any state, county, or local facility within the county on felony or misdemeanor charges, except for those defendants who were indicted by a grand jury, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. . . . The defendant shall have the right to make his or her plea while physically present in the courtroom if he or she so requests. If the defendant decides not to exercise the right to be physically present in the courtroom, he or she shall execute a written waiver of that right. A judge may order a defendant’s personal appearance in court for the initial court appearance and arraignment.” (Penal Code, § 977(c).)

Similarly, under section 977.2, “in any case in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, the Department of Corrections may arrange for all court appearances in superior court, except for the preliminary hearing, trial, judgment and sentencing, and motions to suppress, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom.” (Penal Code, § 977.2 (a).) The Penal Code further provides: “For those court appearances that the department determines to conduct by two-way electronic audiovideo communication, the department shall arrange for two-way electronic audiovideo communication between the superior court and any state prison facility located in the county.” (Id.) Penal Code section 977.2 also states: “Nothing in this section shall be interpreted to eliminate the authority of the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom.”

See Penal code section 977 at

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=977 .

See Penal Code section 977.2 at

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=977.2 .

The Court Technology Advisory Committee prepared a report in 1997 on the application of video technology in the California Courts.² This report includes a discussion of the use of video arraignments.

²See *Report on the Application of Video Technology in the California Courts*, report to the Judicial Council from the Court Technology Advisory Committee (dated August 1997) (CTAC Report).

Video arraignment began in California in 1983 when the Legislature enacted a pilot project. The project began as a two-year pilot in San Diego and Sacramento Counties. The purpose of the Legislation was “(1) to reduce the cost of transporting defendants to court, (2) to eliminate security problems, (3) to minimize pre-arraignment detention time, and (4) to eliminate defendant’s discomfort in being shackled and spending long periods in holding cells.”³ Statutes enacted in the early 1990s extended the duration of the pilot projects and expanded the types of proceedings for which video is permitted.

In 1991, the Judicial Council submitted a report to the Legislature about the video arraignment projects.⁴ The report concluded that the 14 participating courts enthusiastically supported video arraignment; that cooperation and coordination of the efforts of the many agencies involved was essential to success; and that direct cost savings alone are not a complete measure of success.

After the 1991 Judicial Council report, the Legislature repealed the sunset date of the earlier legislation. In 1992, it enacted Penal Code section 997(c) authorizing video arraignment of defendants charged with certain misdemeanor and felony violations if they consented to the process and signed a written waiver of physical presence in the courtroom. In 1995, The Legislature enacted a new Penal Code section 977.2 allowing the California Department of Corrections to conduct pilot projects in five institutions for mandatory video arraignment of defendants who committed crimes in a state penal institution (a waiver of personal presence was not required).

The 1997 CTAC Report indicated that only four additional counties had instituted new programs since 1991, and three courts had expanded video to other courts in their county. This brought the total to 22 courts with video arraignments, as compared with the previous 14. (Two Contra Costa county courts, which were part of the original 14, had abandoned their programs because of financial and personnel issues in the sheriff’s department.⁵

When CTAC surveys courts on their use of remote video technology, it will want to collect updated information about the courts’ use of video arraignments.

Expanded use of videoconferencing in criminal cases

In recent years, the Criminal Law Advisory Committee (CLAC) has considered proposals and suggestions to expand the use of videoconferencing in criminal cases. However, after reviewing

³ Id. at pages 5-6.

⁴ See *Report to the Legislature on Video Arraignment Projects (Penal Code section 977.2)*, Judicial Council of California (dated December 1991), attached to CTAC Report as Appendix A.

⁵ CTAC Report, at pages 6-7.

the issue in 2008, CLAC—which is composed of representatives from all segments of the criminal justice system including judges, prosecutors, defense attorneys, appellate counsel, of Office of the Attorney General, and administrative support staff—unanimously rejected a proposal to expand the use of video conferencing in criminal cases. The reasons for CLAC’s position were as follows:

- Expansion of video conferencing would have a “chilling effect” on attorney-client relations and would likely be counterproductive in the early resolution of cases.
- The most basic nature of the relationship between attorney and client is based on personal interaction.
- The intercession of television between attorney and client was off-putting. Person, face-to-face contact is essential to the attorney-client relationship.
- Clients do not believe that video conference conversations can ever be “confidential” no matter what assurances are provided.
- Using video conferencing but having the attorneys at the jail may overcome these concerns, but would cripple the flow of cases. Attorneys, whether public or private, could not realistically make the appearances required of a criminal practitioner and also appear at holding facilities.
- It is beneficial for the victim, the accused, and the system to have the defendant in the court. The victim likely wishes to feel part of the process and the accused has an opportunity to have family and supporters present, which may assist in resolving the case and absorbs the gravity of the circumstances by first-hand exposure to the decorum of the court.
- The current statutory authority allowing for video appearances is sufficient. Expanding such appearances beyond what is presently authorized would raise significant concerns, such as violating a defense counsel’s right to confront witnesses or participate in proceedings.
- Videoconference appearances are dependent on too many external factors, such as the quality of the equipment, transmission, and training staff.
- Video conferences would require continual funding of technology upgrades.
- Technological limitations significantly frustrate the settlement of cases, which adds to—not alleviates—court congestion.

Thus, CLAC’s general sentiment in 2008 was that the current laws allowing videoconferencing in criminal cases were sufficient and should not be changed. The committee encouraged courts that wanted to expand the use of such appearances in accordance with current law to do so. But it thought that any proposal to expand the use of videoconferencing beyond arrangements for pre-trial hearings and motions, or without the defendant’s consent, would likely be strongly opposed for the above reasons.

CLAC not only discussed the issue internally, but was involved in discussions with key stakeholder groups. In 2010, the California Sheriffs’ Association wrote Chief Justice Ronald M.

George recommending the expanded use of videoconferencing in criminal cases. Subsequently, a roundtable on this subject was held. The roundtable, chaired by Justice Steven Z. Perren who was also the chair of CLAC at that time, brought together individuals from many stakeholder groups to discuss videoconference appearances in criminal proceedings. The participants in the roundtable expressed many of the same concerns about remote appearances that had been expressed by the members of CLAC in 2008.

CTAC may want to have a discussion with members of CLAC about the prospects for expanding use of remote proceedings in criminal cases. Based on CLAC previous explorations, the prospects appear to be somewhat limited. However, in light of the recent experiences with the RVP pilot project for traffic infraction cases described below, there may perhaps be a more open and positive attitude toward use of remote video technology.

Remote Video Pilot Program in Traffic Infraction Cases

The Judicial Council, effective February 1, 2013 adopted a rule authorizing a superior court to establish by local rule a pilot project through December 31, 2015, to permit arraignments, trials, and related proceedings concerning traffic infractions to be conducted by two-way remote video communication methods. (See report at [//www.courts.ca.gov/documents/jc-20130117-itemG.pdf](http://www.courts.ca.gov/documents/jc-20130117-itemG.pdf).) New rule 4.220 rule is intended to enable courts to provide the public with ongoing access to court proceedings at a time when court resources are substantially reduced and courthouses are being closed. The suggestion for the RVP for traffic infraction cases originated from the Superior Court of Fresno County, which was recently forced to close several court facilities because of budget reductions.

In addition to the rule, the council adopted forms to assist the courts in implementing the remote video proceedings (RVP) pilot programs. These include a form that provides essential information to defendants who may be eligible to request an appearance by remote video. The information form includes an express statement of the rights that the defendant will be waiving by voluntarily appearing for arraignment or trials by remote video. The other two forms are waiver forms, to be used in varying circumstances.

See rule 4.220 (on remote video proceedings in traffic infraction cases) at [//www.courts.ca.gov/cms/rules/index.cfm?title=four&linkid=rule4_220](http://www.courts.ca.gov/cms/rules/index.cfm?title=four&linkid=rule4_220).

See *Instructions to Defendant for Remote Video Proceedings*, form TR-500-INFO at [//www.courts.ca.gov/documents/tr500info.pdf](http://www.courts.ca.gov/documents/tr500info.pdf).

See *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial*, form TR-505 at [//www.courts.ca.gov/documents/tr505.pdf](http://www.courts.ca.gov/documents/tr505.pdf).

See *Notice of Waiver of Rights and request for Remote Video Proceedings*, form TR-510 at [//www.courts.ca.gov/documents/tr510.pdf](http://www.courts.ca.gov/documents/tr510.pdf).

Remote Video Appearances at Parole Hearings

Current law authorizes PC 3043.25 allows victims, next of kin, immediate family members of victims, and designated victim representatives, to appear at a hearing to review parole suitability or the settling of a parole date, by means of videoconferencing, if videoconferencing is available at the hearing site. For the purposes of this section, “videoconferencing” means the live transmission of audio and video signals by any means from one physical location to another.

See Penal Code section 3043.25:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=3043.25

Assembly Bill 109 in 2013 shifted responsibility of parole revocation proceedings, traditionally a state function, to the county courts for non-violent, non-serious, and non-sexual offenders. Merced County Superior Court was the first court in California to hold a parole hearing at the main jail through the court's video-conferencing system.

CTAC may want to collect information about the use of videoconferencing at parole hearings.

Video Remote Interpreting

Another promising use of technology has been for video remote interpreting (VRI). VRI allows interpreters to appear remotely in the courtroom and assist parties by providing interpreter services.

There has been a pilot program using VRI for American Sign Language (ASL) interpreting. In 2011-2012, six courts participated in the pilot project: the Superior Courts of Riverside, San Joaquin, Shasta, Sonoma, Stanislaus, and Ventura Counties. VRI conducted with trained court-certified ASL interpreters has provided increased communication access. The program meets interpreting demands when qualified onsite interpreters are not available.

The pilot found:

- VRI is an important tool for cost savings, and for accessing qualified, certified interpreters and for reducing costs
- 30% - 88% of all reported ASL events were VRI appropriate (see discussion of guidelines below)
- The pilot indicated high judicial officer satisfaction
- Average savings per half day: \$209
- Significant travel expenses were eliminated. 34% of costs were travel related
- If expanded, VRI for ASL could save over \$1,000,000 per year

A set of guidelines for the use of VRI for ASL has been developed.⁶ These guidelines, which assume that ASL interpretation has already been confirmed as an appropriate accommodation for a deaf or hard-of-hearing court user, are intended to help courts determine whether VRI is appropriate for a given proceeding and whether the court has access to equipment meeting the minimum technology requirements for effective use of VRI.

The guidelines, among other things, provide that, at the outset:

- An individual analysis must be made of the linguistic and legal demands of the case before recommending VRI. This analysis should consider all aspects of the recommended guidelines.
- All parties must consent, on the record, to using VRI.
- The court should make clear that if for any reason VRI is not facilitating effective communication, any party—including the interpreter—can request that the matter be suspended and rescheduled with an onsite.

For the complete guidelines, see: <http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>.

Telephone Appearances

Telephone Appearances at Conferences and Non-Evidentiary Hearings in Civil Cases

A successful program providing for use of remote access has authorized parties to appear by telephone at conferences and hearings in civil cases. (See Code Civ. Proc., § 367.5; Cal. Rules of Court, rule 3.670: http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_670) The civil bar proposed and very strongly supported this initiative as a means of saving time and reducing costs for civil litigants.

Rule 3.670 states that telephone appearance services may be provided either by a vendor or directly by the court. (Rule 3.670(i).) Currently, telephone appearance services are generally provided for by a vendor under a statewide master agreement. A statute and rule of court provide for a uniform telephone appearance fee of \$86 per call, from which the courts receive \$20. The telephone appearances fees are subject to fee waivers. (Rule 3.670(k).) The trial courts receive millions of dollars in revenue each year from this program.

⁶ These guidelines were developed in connection with the 2009-2012 Court Interpreters Advisory Panel Subcommittee on ASL interpreting issues. [**Check:** The guidelines have not been approved by the Judicial Council.]

Rule 3.670 was amended in 2013 to, among other things, permit parties to appear by telephone at ex parte appearances. These amendments were approved by the council in October 2013 and will become effective January 1, 2014.⁷

Under rules 3.670 and 5.324, telephone appearances may also be used in Title IV-D child support cases.

See rule 5.324: www.courtinfo.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_324.)

Federal funding may be used to pay vendors for telephone appearance services. However, for telephone appearances under Title IV- D, courts may not collect the additional \$20 from the fee that is authorized in civil cases.

Telephone Appearances by Non-minor Former Dependents or Delinquents

In 2011, the Legislature enacted the California Fostering Connections to Success Act, which includes a provision permitting non-minor dependents to appear by telephone at certain hearings.

See AB 212 at:

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB212&search_keywords=

The legislation provides: “The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by non-minor former dependents or delinquents in these proceedings, and for telephonic appearances by non-minor dependents in any proceeding in which the non-minor dependent is a party, and he or she declines to appear and elects a telephonic appearance.” (Welf. & Inst. Code section 388(e)(3).)

To implement the legislation, the Judicial Council adopted various rules and forms, including rule 5.900. (See report: www.courts.ca.gov/documents/ItemA24.pdf) Rule 5.900(e) specifically provides that the person who is the subject of a hearing may appear, at his or her request, at a hearing to terminate juvenile court jurisdiction under rule 5.555, a status review hearing under rule 5.903, or a hearing on a request to have juvenile jurisdiction resumed held under rule 5.906. The standards in rule 5.531 for telephone procedures and protocols apply to all these telephone appearances. Rule 5.900 specifies the showing necessary to require a personal appearance at these hearings. The rule also states that telephone appearances must be permitted at no cost to the minor or person requesting to return juvenile court jurisdiction and foster care.

See rule 5.900 at www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_900

See rule 5.531 at www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_531

⁷ As a result, legislation that would have expanded the types of hearings, conferences, and proceedings at which telephone appearances must be permitted in civil cases was not pursued. (See AB 1582: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1582&search_keywords=)

Appearances by Telephone in Small Claims Cases

A few years ago an effort was made to obtain statutory authority for parties in small claims cases to appear by declaration or, if located outside of California, by telephone. In 2007, the Judicial Council agreed to sponsor legislation to amend the small claims statutes to provide for such access. (See report at: <http://www.courts.ca.gov/documents/120707item1D.pdf> .)

The bill was introduced in 2008 as AB 1873 (Lieu). However, in the final version of the bill, the provisions for appearance by declaration or telephone were removed based on last-minute objections from the Chair of the Senate Judiciary Committee. (See AB 1873:

http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1851-1900/ab_1873_bill_20080401_amended_asm_v97.pdf .)

At some point, the Judicial Council may want to consider whether to sponsor a version of this legislation again in the future.

Other Possible Uses and Types of Remote or Telephonic Proceedings

Court-Provided Video Conferencing

When the Uniform Civil Fee Act (UCF) was developed several years ago, the Superior Court of Los Angeles County indicated that it wanted to establish a videoconferencing facility and to charge a fee for video conferencing services. Hence, the UCF includes a statutory fee for use of court videoconferencing. (See Gov. Code section 70630 (authorizing “a reasonable fee to cover the costs of permitting parties to appear by videoconferencing”).).

It might be helpful to find out more about the purposes for which this videoconferencing facility has been used in Los Angeles and the court’s evaluation of the benefits of operating such a facility. It would also be useful to know if any other courts have established videoconferencing capacity and, if so, how it is being used. CTAC can ask about these matters in its survey of courts’ use of remote video technology.

Use of Skype and Other Similar Technologies in Family Law Facilitator Mediations and other proceedings

Some courts have reported using Skype—for example, in family law facilitator proceedings. It may be worth exploring further what types of use is being made of Skype. Also, it appears that other similar—or more sophisticated—remote technologies are being used by some courts. CTAC may want to collect information about the use of these technologies.

Some issues raised by previous efforts

The efforts described above suggest a number of issues to be considered in developing proposals for the use of technology to provide for remote access to court proceedings, including:

- 1. Some fiscal considerations**

How is the videoconferencing or other technology to be used in the courts to be paid for?

Are there revenue sources such as fees available to pay for the technology?

Are private parties capable and willing to pay for the service?

How are fee waivers and other exemption or exceptions to be handled?

If videoconferencing principally benefits a public entity, such as the sheriffs' department, is that entity able and willing to pay for the service?

2. Some legal considerations

Are there legal obstacles, problems, or objections to the use of remote appearances, such as those raised above in connection with the proposals to expand remote appearances in criminal cases?

Is remote access more challenging for proceedings involving witnesses and testimony than for other types of proceedings? If so, should priority be given to providing for remote access to non-evidentiary proceedings, such as conferences and mediations?

3. Some practical and technical considerations

Would the remote access be provided directly by the courts or by a vendor? If the latter, under what conditions?

What technology is proposed to be used for a particular purpose?

Why is that particular technology selected?

Is older, simpler, and cheaper technology, such as telephone appearances, sometimes preferable over more advanced technology?

Can new technologies, such as Skype, provide a more cost-effective way for parties to appear remotely?

What maintenance, staffing, and upgrading costs will be involved in using various technologies—and how will they be paid for?

4. Some political considerations

Is a proposal one that will be supported or will it be opposed by interested organizations and groups?

Will the proposal be acceptable and successful in the Legislature? If not, can it be modified to be successful?

Conclusion

The preceding discussion of recent efforts to promote remote access to hearings is not meant to be comprehensive. Nor does it identify all the possible types of use of remote technology that the courts may want to consider in the future. But the memorandum does identify some of the major types of remote technology that are currently being used by the courts. CTAC may want to specifically ask the courts about these in its survey, about the kinds of experiences are the courts having using this technology, and what types of remote technology the courts are thinking of adopting in the future. Finally, the memorandum highlights some of the issues that CTAC may want to consider as it explores the opportunities for expanded remote access to court hearings and other proceedings.

Rule 5.324. Telephone appearance in Title IV-D hearings and conferences

(a) Purpose

This rule is intended to improve the administration of the high volume of title IV-D child support hearings and conferences. Participation by both parents is needed for fair and accurate child support orders. The opportunity to appear by telephone fosters parental participation.

(b) Definition

"Telephone appearance," as used in this rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means.

(c) Permissibility of telephone appearances

Upon request, the court, in its discretion, may permit a telephone appearance in any hearing or conference related to an action for child support when the local child support agency is providing services under title IV-D of the Social Security Act.

(d) Exceptions

A telephone appearance is not permitted for any of the following except as permitted by Family Code section 4930:

- (1) Contested trials, contempt hearings, orders of examination, and any matters in which the party or witness has been subpoenaed to appear in person; and
- (2) Any hearing or conference for which the court, in its discretion on a case-by-case basis, decides that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

(Subd (d) amended effective January 1, 2008.)

(e) Request for telephone appearance

- (1) A party, an attorney, a witness, a parent who has not been joined to the action, or a representative of a local child support agency or government agency may request permission of the court to appear and testify by telephone. The local child support agency may request a telephone appearance on behalf of a party, a parent, or a witness when the local child support agency is appearing in the title IV-D support action, as defined by rule 5.300(c). The court may also, on its own motion, allow a telephone appearance.
- (2) A party, an attorney, a witness, a parent who has not been joined to the action, or a representative of a local child support agency or government agency who wishes to appear by telephone at a hearing must file a request with the court clerk at least 12 court days before the hearing. A local child support agency that files the request for telephone appearance on behalf of a party, a parent, or a witness must file the request with the court clerk at least 12 court days before the hearing. This request must be served on the other parties, the local child support agency, and attorneys, if any. Service must be by personal delivery, fax, express mail, or other means reasonably calculated to ensure delivery by the close of the next court day.
- (3) The mandatory *Request for Telephone Appearance (Governmental)* (form FL-679) must be filed to request a telephone appearance.

(Subd (e) amended effective January 1, 2008.)

(f) Opposition to telephone appearance

Any opposition to a request to appear by telephone must be made by declaration under penalty of perjury under the laws of the State of California. It must be filed with the court clerk and served at least eight court days before the court hearing. Service on the person or agency requesting the telephone appearance; all parties, including the other parent, a parent who has not been joined to the action, the local child support agency; and attorneys, if any, must be accomplished using one of the methods listed in (e)(2).

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

(g) Shortening time

The court may shorten the time to file, submit, serve, respond, or comply with any of the procedures specified in this rule.

(h) Notice by court

At least five court days before the hearing, the court must notify the person or agency requesting the telephone appearance, the parties, and attorneys, if any, of its decision. The court may direct the court clerk, the court-approved vendor, the local child support agency, a party, or an attorney to provide the notification. This notice may be given in person or by telephone, fax, express mail, e-mail, or other means reasonably calculated to ensure notification no later than five court days before the hearing date.

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

(i) Need for personal appearance

If, at any time during the hearing, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(j) Vendors, procedure, audibility, reporting, and information

Rule 3.670(j)-(q) applies to telephone appearances under this rule.

(Subd (j) amended effective January 1, 2014; previously amended effective January 1, 2007, July 1, 2008, and July 1, 2011.)

(k) Technical equipment

Courts that lack the technical equipment to implement telephone appearances are exempt from the rule.

Rule 5.324 amended effective January 1, 2014; adopted effective July 1, 2005; previously amended effective January 1, 2007, January 1, 2008, July 1, 2008, and July 1, 2011.

Rule 5.531. Appearance by telephone (§ 388; Pen. Code § 2625)

(a) Application

The standards in (b) apply to any appearance or participation in court by telephone, videoconference, or other digital or electronic means authorized by law.

(b) Standards for local procedures or protocols

Local procedures or protocols must be developed to ensure the fairness and confidentiality of any proceeding in which a party is permitted by statute, rule of court, or judicial discretion to appear by telephone. These procedures or protocols must, at a minimum:

- (1) Ensure that the party appearing by telephone can participate in the hearing in real time, with no delay in aural or, if any, visual transmission or reception;
- (2) Ensure that the statements of participants are audible to all other participants and court staff and that the statements made by a participant are identified as being made by that participant;
- (3) Ensure that the proceedings remain confidential as required by law;
- (4) Establish a deadline of no more than three court days before the proceeding for notice to the court by the party or party's attorney (if any) of that party's intent to appear by telephone, and permit that notice to be conveyed by any method reasonably calculated to reach the court, including telephone, fax, or other electronic means;
- (5) Permit the party, on a showing of good cause, to appear by telephone even if he or she did not provide timely notice of intent to appear by telephone;
- (6) Permit a party to appear in person for a proceeding at the time and place for which the proceeding was noticed, even if that party had previously notified the court of an intent to appear by telephone;
- (7) Ensure that any hearing at which a party appears by telephone is recorded and reported to the same extent and in the same manner as if he or she had been physically present;
- (8) Ensure that the party appearing by telephone is able to communicate confidentially with his or her attorney (if any) during the proceeding and provide timely notice to all parties of the steps necessary to secure confidential communication; and
- (9) Provide for the development of the technological capacity to accommodate appearances by telephone that comply with the requirements of this rule.

(c) No independent right

Nothing in this rule confers on any person an independent right to appear by telephone, videoconference, or other electronic means in any proceeding.

Rule 5.531 adopted effective January 1, 2012.

OPTION 1. Rules 5.9 of the California Rules of Court would be amended, effective January 1, 2016, to read:

1 **Rule 5.9. Appearance by telephone**

2
3 (a) Application

4
5 This rule applies to all family law cases, except for actions for child support
6 involving a local child support agency. Rule 5.324 governs telephone appearances
7 in governmental child support cases.
8

9 (b) Definition

10
11 “Telephone appearance,” as used in this rule, includes any appearance by
12 telephonic, audiovisual, videoconferencing, digital, or other electronic means
13 authorized by law.
14

15 ~~(b)~~ (c) Telephone appearance

16
17 The court may permit a party to appear by telephone at a hearing, conference, or
18 proceeding if the court determines that a telephone appearance is appropriate.
19

20 ~~(c)~~ (d) Need for personal appearance

21
22 (1) At its discretion, the court may require a party to appear in person at a
23 hearing, conference, or proceeding if the court determines that a personal
24 appearance would materially assist in the determination of the proceedings or
25 in the effective management or resolution of the particular case.
26

27 (2) If, at any time during a hearing, conference, or proceeding conducted by
28 telephone, the court determines that a personal appearance is necessary, the
29 court may continue the matter and require a personal appearance.
30

31 ~~(d)~~ (e) Local rules

32
33 Courts may develop local rules to specify procedures regarding appearances by
34 telephone.
35

36 (f) No independent right

37
38 Nothing in this rule confers on any person an independent right to appear by
39 telephone, videoconference, or other electronic means in any proceeding.
40

41
42 * * *
43
44

OPTION 2. Rules 5.9 of the California Rules of Court would be amended, effective January 1, 2016, to read:

1 **Rule 5.9. ~~Appearance by telephone~~ Remote appearance**

2
3 (a) Application

4
5 This rule applies to all family law cases, except for actions for child support
6 involving a local child support agency. Rule 5.324 governs telephone appearances
7 in governmental child support cases.
8

9 (b) Definition

10
11 “Remote appearance,” as used in this rule, includes any appearance by telephonic,
12 audiovisual, videoconferencing, digital, or other electronic means authorized by law.
13

14 ~~(b)~~ (c) ~~Telephone~~ Remote appearance

15
16 The court may permit a party to appear ~~by telephone~~ remotely at a hearing,
17 conference, or proceeding if the court determines that a ~~telephone~~ remote
18 appearance is appropriate.
19

20 ~~(c)~~ (d) Need for personal appearance

21
22 (1) At its discretion, the court may require a party to appear in person at a
23 hearing, conference, or proceeding if the court determines that a personal
24 appearance would materially assist in the determination of the proceedings or in the
25 effective management or resolution of the particular case.
26

27 (2) If, at any time during a hearing, conference, or proceeding ~~conducted by~~
28 ~~telephone~~ in which a party is appearing remotely, the court determines that a
29 personal appearance is necessary, the court may continue the matter and require a
30 personal appearance.
31

32 ~~(d)~~ (e) Local rules

33
34 Courts may develop local rules to specify procedures regarding remote appearances
35 ~~by telephone~~.
36

37 * * *
38



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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MEMORANDUM

Date

February 23, 2015

Information only

Please review for February 26 Meeting

To

Family and Juvenile Law Advisory
Committee

Deadline

February 26, 2015

From

Diana Glick
Center for Families, Children & the Courts

Contact

Diana Glick
916-643-7012
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Subject

Telephonic Appearances: Language
Modernization, Background and Future
Opportunities

Overview

The Court Technology Advisory Committee (CTAC) is leading a project to comprehensively review and modernize the California Rules of Court so that the rules will be consistent with, and foster, modern e-business practices. In this project, CTAC is coordinating with other advisory committees that are responsible for rules in their respective subject matter areas in order to ensure that each title is modernized appropriately in light of the statutory requirements and circumstances unique to each area of law.

This work is being undertaken in two phases: phase 1 encompasses technical amendments only, while phase 2 will address substantive rule changes as well as seek guidance from the committee on potential statutory changes. Technical amendments are those that will allow the language of the rules to adapt to and account for the swiftly-changing technological landscape without altering any current requirements, discretion or parameters for the use of technology.

On February 19, 2015 the Family and Juvenile Law Advisory Committee convened by telephone to review the proposed technical changes to title 5. Nine changes were proposed and eight of these were received without comment by the committee. Those eight amendments will move forward to public comment, barring any objection or request for additional clarification from a committee member at the February 26 meeting.

During the February 19 meeting, committee members expressed several concerns about the proposed change to rule 5.9 on telephonic hearings. Staff was asked to draft this memorandum to explore the issue more fully and present alternative language for a technical change.

This memorandum proposes two approaches for an amendment to rule 5.9 and balances those options against the possibility of refraining from making any changes at this time. This memorandum also provides background on the use of telephonic appearances in the family and juvenile context and to what extent the law and enabling rules have expanded these opportunities to other technologies, such as videoconferencing.

Staff will seek guidance at the February 26, 2015 meeting on the proposed changes to rule 5.9 and will either present a revised proposal for this rule at the March 12, 2015 meeting or prepare additional information for a working group convened to look at the substantive issues implicated in the modernization project.

Background and origins of Rule 5.9: Elkins Family Law Task Force

Rule 5.9 was adopted as part of the restructuring and amendment of family law rules in response to the California Supreme Court's decision in *Elkins v. Superior Court*. (41 Cal. 4th 1337 (2007).) Specifically, the Court recommended that the Judicial Council establish a task force to:

[s]tudy and propose measures to assist trial courts in achieving efficiency and fairness in marital dissolution proceedings and to ensure access to justice for litigants, many of whom are self-represented. Such a task force might wish to consider proposals for adoption of new rules of court establishing statewide rules of practice and procedure for fair and expeditious proceedings in family law, from the initiation of an action to postjudgment motions. Special care might be taken to accommodate self-represented litigants. Proposed rules could be written in a manner easy for laypersons to follow, be economical to comply with, and ensure that a litigant be afforded a satisfactory opportunity to present his or her case to the court.

Id. at 1369, fn. 20. In response to this decision, the Judicial Council established the Elkins Family Law Task Force, which issued its final report and recommendations in April 2010. The task force report identified barriers that impede the participation of self-represented litigants in family law proceedings and specifically noted rules and statutes that should be amended to

facilitate greater and more effective participation. Thereafter, the task force, in cooperation with the Family and Juvenile Law Advisory Committee, undertook a comprehensive review and revision of the family law rules. This effort culminated in the adoption of 55 new rules of court, the amendment of 19 rules and the repeal and renumbering of 42 rules within the family law division of title 5. The restructured and amended rules went into effect on January 1, 2013.

Rule 5.9 was drafted to respond to the specific task force recommendation: “in all cases, the court should encourage innovative alternatives to personal attendance at case management conferences, such as telephone appearances or e-mail statements regarding the status of the case when appropriate.” In addition, it was found that many times, self-represented litigants were not aware that an appearance by telephone could be an option for appearing at a simple hearing or request a continuance of a hearing. The goal of rule 5.9 was to authorize courts to allow for telephonic appearances and develop corresponding local rules, as well as inform court users of the process and direct them to local rules for specific guidance in their county.

Through the public comment process, one commentator stated, “I suggest that the term “telephone appearance” be defined to include other forms of telecommunication, such as web-conferencing (e.g. Skype®). This will allow individual courts flexibility to permit communications based on their specific resources and available technology.” Other comments included a suggestion that a provision be added for appearing by phone at mediation or other matters with Family Court Services. Commentators also suggested that the rule either include specific procedures like those in civil rule 3.670 or reference the civil rules as applicable to family law proceedings. The committee declined to expand the definition of telephone appearance at that time or to prescribe specific protocols for local courts.

Two comments were received opposing the rule. One commentator stated that the rule was not necessary because it is duplicative of an existing rule or statute. The other stated that the rule was in conflict with civil rule 3.670. The committee concluded that rule 5.9 was not conflict with civil rule 3.670 and was not duplicative of any existing statewide rule or statute because civil rule 3.670(b) excludes family law proceedings and rule 5.324 (Telephone appearance in Title IV-D hearings and conferences) relates only to governmental child support cases.

Proposal for modernization of rule 5.9 Appearance by telephone

On February 19, the committee received a proposal to amend rule 5.9 to expand the definition of “telephone appearance” to include other forms of technology, as suggested by one of the commentators in the initial adoption cycle. Specifically, the proposal was to insert the following language:

“Telephone appearance,” as used in this rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means.”

The goal of the amendment is to modernize the language of this rule so that it will remain applicable as courts innovate with current and future technologies for remote appearances. A mock-up of the proposed changes to rule 5.9 under each of these options is attached for the committee’s review.

Option 1: The first concern expressed about inserting a definition of “telephone appearance” was that the definition itself was too broad and might encompass technologies that are not appropriate for a court appearance, such as texting. One approach to allay committee concerns would be to reinforce existing limits on the types of technology that could be defined as “telephone appearance.”

For example:

(b) Definition

“Telephone appearance,” as used in this rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means authorized by law.”

* * *

This is very similar to the definition in rule 5.531, which establishes the parameters for telephonic and other remote appearances in juvenile dependency proceedings. The insertion of the term “authorized by law” is designed to ensure that whatever technology is proposed to be employed will be statutorily mandated or approved by the court for use in a particular setting. To ensure that technology is only used at the discretion of the judge and according to law, the committee may also consider borrowing another provision from rule 5.531:

No independent right

Nothing in this rule confers on any person an independent right to appear by telephone, videoconference, or other electronic means in any proceeding.

* * *

Option 1 preserves the existing structure of rule 5.9 and adds a definition that should allow for the use of a broad range of electronic communication methods while maintaining the discretion of the court to determine whether a telephonic or other remote appearance is appropriate.

Option 2: A second, more comprehensive approach to this rule would be to rewrite it using technology-neutral terminology. This could be accomplished by substituting “telephone appearance” with the term “remote appearance.”

For example:

Rule 5.9. ~~Appearance by telephone~~ Remote appearance

(a) Application

This rule applies to all family law cases, except for actions for child support involving a local child support agency. Rule 5.324 governs telephone appearances in governmental child support cases.

(b) Definition

“Remote appearance,” as used in this rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means authorized by law.

~~(b)~~ (c) ~~Telephone~~ Remote appearance

The court may permit a party to appear ~~by telephone~~ remotely at a hearing, conference, or proceeding if the court determines that a ~~telephone~~ remote appearance is appropriate.

~~(c)~~ (d) Need for personal appearance

(1) At its discretion, the court may require a party to appear in person at a hearing, conference, or proceeding if the court determines that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(2) If, at any time during a hearing, conference, or proceeding ~~conducted by telephone~~ in which a party is appearing remotely, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

~~(d)~~ (e) Local rules

Courts may develop local rules to specify procedures regarding remote appearances ~~by telephone~~.

* * *

One benefit of this approach would be to resolve the seeming inconsistency of broadening the definition of “telephone” appearance to include technologies that are not telephonic. This was a concern expressed by the committee.

In addition, the “technology neutral” approach of using the term “remote” to denote any appearance that is not in person, regardless of how communication with the court is established, is consistent with the committee’s recent actions in revising and adopting language for electronic filing in the juvenile law context. Rule 5.522, which was previously titled “Fax Filing,” was revised and renamed “Remote Filing,” and incorporates title 2 rules on electronic filing. The revised rule took effect on July 1, 2014.

If it is determined that this is the best option, the committee may also want to consider making similar changes to rule 5.324 (telephonic appearance in Title IV-D child support cases) and rule 5.531 (appearance by telephone in juvenile court proceedings), in order to ensure consistency of terminology throughout the title (copies of these rules are attached for the committee’s reference). Should a revision of these three rules be undertaken, it will be important to preserve the existing legal parameters and requirements corresponding to statute for remote appearances in these two specific contexts.

Option 3: Finally, a third option would be to refrain from making any changes to rule 5.9 at this time. The committee may ask a working group to consider all the substantive issues arising from the modernization project, including the issue of remote appearances, more closely and come back to the full committee with a recommendation.

Remote Appearances in the Family and Juvenile Law Contexts

In addition to the general authorization in rule 5.9 for family law proceedings, remote appearances, either by telephone or other means, currently are authorized in four specific contexts within title 5.

Appearances at Family Centered Case Resolution Conferences (Rule 5.83)

On the court’s initiative or at the request of parties, a family centered case resolution conference may be held in person, by telephone, by videoconferencing, or by other appropriate means of communication. Family centered case resolution conferences are scheduled with parties, attorneys, and a judicial officer to develop and implement a family centered case resolution plan. These conferences are not intended to be evidentiary hearings.

Appearances by Videoconference or Teleconference in Title IV-D Child Support Cases (Rule 5.324)

Upon request, the court in its discretion may permit a telephone appearance in any hearing or conference related to an action for child support when the local child support agency is providing services under title IV-D of the Social Security Act. “Telephone appearance,” as used in the rule, includes any appearance by telephonic, audiovisual, videoconferencing, digital, or other electronic means. The rule establishes the procedures for requesting and opposing telephone appearances and for providing notice of the court’s decision whether to permit such an appearance.

A telephone appearance is *not* permitted, however, for any of the following except as permitted by Family Code section 4930: (1) Contested trials, contempt hearings, orders of examination, and any matters in which the party or witness has been subpoenaed to appear in person; and (2) Any hearing or conference for which the court, in its discretion on a case-by-case basis, decides that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

Video or Telephone Appearances by Incarcerated Parents in Dependency Cases (Rules 5.530, 5.531)

In 2010, the Legislature enacted AB 12 and SB 962, which allow incarcerated parents to appear at hearings by telephone or videoconference in proceedings concerning termination of parental rights or seeking to adjudicate the child of a prisoner a dependent child of the court. The legislation provides that these proceedings may not be adjudicated without the physical presence of the parent unless the court receives a knowing waiver from the parent of his or her right to be physically present at the proceedings, or an affidavit signed by a person in charge of the incarcerating institution that the prisoner does not intend to appear at the proceeding.

To implement this legislation, effective January 1, 2012, the Judicial Council amended rule 5.530 and adopted rule 5.531 to set minimum standards for procedures governing the telephone appearance of a party in the juvenile court proceedings. The council also revised an order, form JV-450, and adopted a prisoner's statement, form JV-451, for use in connection with these proceedings.

Telephone Appearances by Non-minor Former Dependents or Delinquents (Welf. & Inst. Code section 388(e)(3), Rule 5.531)

The Legislature has also shown concern for the well-being of former foster youth who have left the foster care system upon reaching the age of 18. In AB 12, the Legislature created a new class of persons under the jurisdiction of the juvenile court: nonminor dependents. AB 12 amended section 388(e)(3) to require the Judicial Council to adopt rules providing for telephonic appearances by nonminor former dependents or delinquents.

Rule 5.531 states that its terms apply to "any appearance or participation in court by telephone, videoconference, or other digital or electronic means authorized by law." (Rule 5.531(b).) The rule sets forth standards for local court rules, including requirements of audibility, preservation of confidentiality and the ability of parties to confer privately with counsel if necessary.

In addition, rule 5.531 includes a provision clearly stating that no person has a right to appear remotely in any proceeding.

For a full discussion on the issue of remote appearances in juvenile law proceedings, please see the Report to the Judicial Council dated September 30, 2011:

<http://www.courts.ca.gov/documents/ItemA23.pdf>

Examples of Remote Video Appearances in other Areas of Law

There are a number of other areas of law in which remote video appearances have been successfully implemented, increasing access for litigants and representing a savings of time and money to both litigants and the courts. For a full discussion on the issue of remote appearances in general, please see the attached report to the Projects Subcommittee of the Judicial Council's Court Technology Advisory Committee titled, "Remote Access to Court Proceedings: Background and Opportunities."

The following is a summarized list of these proceedings, with reference to the enabling rule or statute:

- Videoconferencing for Oral Arguments in the Appellate Division of the Superior Court (Rules 8.885 and 8.829)
- Remote Video Appearances in Criminal Cases (Non-Traffic) (Penal Code §§ 977(c), 977.2 (a))
- Remote Video Pilot Program in Traffic Infraction Cases (Rule 4.220)
- Remote Video Appearances at Parole Hearings (Penal Code § 3043.25)
- Video Remote Interpreting for American Sign Language (American Sign Language interpreting has been accessed through video technology in a variety of settings, in accordance with guidelines developed by the Judicial Council's Court Interpreters Advisory Panel Subcommittee on ASL interpreting issues. For the complete guidelines, see: <http://www.courts.ca.gov/documents/CIP-ASL-VRI-Guidelines.pdf>.)
- Remote Video Appearances in Civil Cases (currently, the civil rules contemplate only telephonic appearances in rule 3.670; however, some courts have allowed witnesses to appear remotely via video appearance with the consent of the parties)

Be prepared.

- Bring 2 copies of all documents and filed forms, including the *Proof of Service*.
- Bring documents that support your case (police or medical reports, rental agreements or receipts, photos, bills, etc.).

Provide the other party with a copy of all documents.

- Either person can bring a “support” person to the court hearing to feel safer. The support person must not talk for either person in court.

• **At the [evidentiary] hearing, you can call witnesses to testify in support of your case.** Your witnesses can also write their statements about what they saw or heard, **in a declaration** signed under penalty of perjury. **However, if the party objects to the written declarations, the witnesses will need to be present in court and testify.**

Witnesses can use form MC-030, *Declaration*, or a sheet of paper titled “Declaration” **to provide statements in writing.**

- If you are the person to be restrained, complete, file, and serve Form DV-120, *Response to Request for Domestic Violence Restraining Order*, if you haven’t already. Bring 3 copies of DV-120 to the hearing.

- Most courtrooms do not allow children. Before the date of the hearing, ask if there is a children’s waiting room in the courthouse if you do not have childcare available.

- Practice what you want to say to the judge. Make a list of the orders you want or the orders you disagree with. If you get nervous at the hearing, just read from your list.

Don't miss the hearing.

- If you are the person asking for protection and you miss the hearing, the restraining orders will end and you will have to complete the paperwork all over again.
- If you are the person to be restrained and you miss the hearing, the judge can still make the orders.

Get there 30 minutes early.

- Find the courtroom.
- When the courtroom opens, go in and tell the court clerk or officer that you are present.
- Do not sit near or talk to the other person.
- If you are afraid of the other person, tell the officer.
- Watch the other cases so you will know what to do.
- When your name is called, go to the front of the courtroom.
- Your hearing may last just a few minutes or up to an hour or more. However, you may be at court several hours, depending on the number of other cases.

What if you don't speak English?

When you file your papers, tell the clerk you will need an interpreter. If a court interpreter is not available, bring someone to interpret for you. Do not ask a child, a protected person, or a witness to interpret for you.

The judge may ask questions.

- Tell the truth. Speak slowly. You can read from your list.
- Give complete answers.
- If you don’t understand, say “I don’t understand the question.”
- Speak only to the judge, unless it is your turn to ask questions.
- When people are talking, wait for them to finish. Then you can ask them questions about what they said.
- Do not interrupt other than for legal objections.
- If the other person tells a lie, wait until he or she finishes talking, then tell the judge.
- Do not sit near or talk to the other person.
- The person to be protected and the person to be restrained or their lawyers may ask questions.

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The judge will decide.

- At the hearing, the judge will decide by a preponderance of the evidence whether or not abuse has occurred under the law.

At the hearing, the judge will consider whether denial of any orders will risk the safety of the person asking for protection or the safety of children for whom custody, visitation, or child support orders are requested. Safety concerns about the financial needs of the person asking for protection will also be considered. At the end of the hearing, the judge will say what the orders are. The orders will be put on Form DV-130 (*Restraining Order After Hearing*).

If the judge makes orders at the hearing—Form DV-130**For person to be protected:**

- Sometimes the court clerk will fill out Form DV-130. If not, ask who should fill it out.
- If the court clerk fills out Form DV-130, the clerk will bring the form to the judge.
- If you fill out Form DV-130, bring it to the court clerk when you finish.
- Ask the clerk for the local process to get Form DV-130 filed. After the form is filed, the court clerk will give you up to three copies.
- Read the signed Form DV-130 carefully. If anything is different from what the judge ordered, tell the court clerk right away or talk to your lawyer if you have one for the case.

For person to be restrained:

- If the judge makes orders at the hearing you must obey them. If you do not, you could be arrested.
- Any orders will be written on Form DV-130. When you receive the signed and filed Form DV-130, read it carefully. If anything is different from what the judge ordered, tell the court clerk right away or talk to your lawyer if you have one for the case.

The judge may “continue” your case.

This means you have to come back another day. The judge can do this if:

- The person to be restrained needs time to get a lawyer or prepare an answer
- The judge wants more information
- Your hearing is taking longer than planned

The person to be protected may ask the judge to extend the temporary orders until the new hearing date.

The court may use *Notice of New Hearing Date and Order on Reissuance* (Form DV-116) for the new hearing.

What about child custody or visitation?

•

If you need child custody or visitation orders, the Court will send you to Family Court Services. See Forms FL-313-INFO and FL-314-INFO. OR

If you need child custody or visitation orders, the judge will send you to Family Court Services which will help you reach an agreement about a parenting plan, or in some courts make a written recommendation about a parenting plan, that is best for the children. See Forms FL-313-INFO and FL-314-INFO.

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- If you are sent to Family Court Services, the judge may make the restraining, custody, and visitation orders last until the next hearing or until another court order.

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- Either parent can ask to meet with Family Court Services separately. The protected person may bring a support person to the meeting. A support person can provide emotional support but cannot speak for the protected person.¶

DRAFT

DV-520-INFO Get Ready for the Court Hearing

What happens after the hearing?

For person to be protected:

- The court clerk will send Form DV-130 to law enforcement or CLETS for you. CLETS is a statewide computer system that lets police know about the order.
- If the restrained person was at the hearing, you may have him or her served with a copy of Form DV-130 by mail.
- If the restrained person was not at the hearing, but the judge's orders are the *same* as the temporary order, you may have him or her served with a copy of Form DV-130 by mail.
- If the restrained person was not at the hearing, and the judge's orders are *different* from the temporary order, you must have someone serve Form DV-130 in person, not by mail. Ask the server to complete Form DV-200, *Proof of Personal Service*, and give it back to you.
- Keep a copy of the orders with you at all times.

For person to be restrained:

- You will be served with the *Restraining Order After Hearing* (Form DV-130) within a few days, by mail or in person.
- If you do not receive a copy of the orders within a few days after the hearing, ask the clerk for a copy.
- Keep a copy of the orders with you at all times.

Which forms will I receive after the hearing?

Use this checklist to see if you have the right forms for the case:

- Form DV-130 (*Restraining Order After Hearing*) if the judge made orders at the hearing.
- Form DV-140 (*Child Custody and Visitation Order*) if the judge ordered child custody or visitation. Sometimes lawyers use different forms.
- Form FL-342 (*Child Support Information and Order Attachment*) or Form FL-343 (*Spousal, Partner, or Family Support Order Attachment*) if the judge orders child support and/or spousal support.

Need more help?

Ask the court clerk about free or low-cost legal help.

For a referral to a local domestic violence or legal assistance program, call the National Domestic Violence Hotline:

1-800-799-7233

TDD: 1-800-787-3224

It's free and private.

They can help you in more than 100 languages.

What if you are deaf or hard of hearing?



Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Order* (Form MC-410). (Civil Code, § 54.8.)

Family and Juvenile Law Advisory Committee

Legislative Update, February 26, 2015

Listed below are the family and juvenile law related bills that have been introduced in 2015 as of February 20, 2015. The full text, status, analyses, and vote records for these bills can be found at <http://leginfo.legislature.ca.gov/>. The bill list is organized by subject matter. For questions on any of these bills please contact: Alan Herzfeld at (916) 323-3121 or alan.herzfeld@jud.ca.gov.

Family and Domestic Violence Bills

AB 297 (Lackey R) Child custody: preferences of child

Location: Waiting for Assignment to Committee

Summary: Assemblymember Lackey intends to propose legislation to make sure that children are placed appropriately for their safety and well being in custody cases, but have no specific ideas or proposals yet. They are likely to develop an idea over the course of 2015, and reintroduce the bill in 2016.

AB 365 (Garcia, Christina D) Child custody proceedings: testimony by electronic means

Location: Waiting for Assignment to Committee

Summary: Would require the court in a child custody proceeding to allow any party to present testimony and evidence and participate in court-ordered child custody mediation by electronic means, including telephone, video teleconferencing, or the Internet, consistent with the due process rights of all parties.

AB 380 (Waldron R) Marriage: putative spouses

Location: Waiting for Assignment to Committee

Summary: Current law requires a court, if a determination is made that a marriage is void or voidable and either party believed in good faith that the marriage was valid, to declare the party or parties to have the status of putative spouse and to divide the property that would have been community property if the marriage was valid as if it were community property. This bill would prohibit the court from making these declarations or orders unless the party or parties that believed in good faith that the marriage was valid request the court to do so.

SB 28 (Wieckowski D) Spousal support factors: domestic violence conviction

Location: Senate Judiciary Committee

Summary: Current law requires that in any proceeding for dissolution of marriage where there is a criminal conviction for an act of domestic violence perpetrated by one spouse against the other spouse entered by the court within 5 years prior to the filing of the dissolution proceeding, or at any time thereafter, there is a rebuttable presumption affecting the burden of proof that any

award of temporary or permanent spousal support to the abusive spouse otherwise awardable should not be made. This bill would provide that a plea of nolo contendere would constitute a criminal conviction for the above purposes.

Juvenile Dependency Bills

AB 5 (Nazarian D) Foster youth: transition from high school to postsecondary education

Location: Waiting for Assignment to Committee

Summary: Would express the intent of the Legislature to enact legislation that would facilitate the transition of foster youth from high school to postsecondary education. In the past, Fam/Juv has recommended support for, and the Judicial Council has supported, legislative proposals that will aid dependent children in pursuing their education.

AB 217 (Maienschein R) Juvenile law: hearings

Location: Assembly Judiciary Committee

Summary: Current law entitles a minor who is the subject of a juvenile court hearing to be present at that hearing. Under current law, the court is required to allow the minor, if he or she so desires, to address the court and participate in the hearing. This bill would require the court to inform the minor, if the minor is present at the hearing, of his or her right to address the court and participate in the hearing.

AB 260 (Lopez D) Foster care: parenting youth

Location: Assembly Human Services Committee

Summary: Would declare that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely on the basis of information concerning the parent's placement history, behaviors, health or mental health diagnoses, or any other circumstances, occurring prior to the birth of the child.

AB 381 (Calderon D) Dependent children: placement

Location: Waiting for Assignment to Committee

Summary: Would state the intent of the Legislature to enact legislation to ensure the best possible outcome for children removed from the physical custody of his or her parents. This is a follow up to last year's AB 2391, which would have required that, whenever a new placement of the child must be made, consideration for placement to again be given to relatives who have not been found to be unsuitable and who will fulfill the child's reunification or permanent plan requirements. AB 2391 failed to pass the Senate Judiciary Committee.

AB 403 (Stone D) Foster care

Location: Waiting for Assignment to Committee

Summary: Would express the intent of the Legislature to enact legislation that would reform the continuum of care for youth in foster care in the areas of placement setting, accreditation, temporary transition strategies, foster family agency licensure, provision of core services, residential treatment service provisions, residential treatment center employment requirements, rates, program auditing, and performance measures and transparency.

AB* (Rendon D) Dependency hearings: electronic notification

Location: Not yet introduced

Summary: Assemblymember Rendon is planning to introduce a bill proposed by LA County to allow email notification in dependency cases. They appear willing to take suggested language to allow an opt-in to electronic notification, but not an opt-out of paper notifications of parties, thereby continuing the requirement of a paper notice to parents in these cases where custody of their children is at issue.

SB 12 (Beall D) Foster youth

Location: Waiting for Assignment to Committee

Summary: Would revise the definition of a nonminor dependent and former nonminor dependent to include a nonminor who was subject to an order for foster care placement at any time before he or she attained 12 years of age and who has not attained 21 years of age. This bill would make conforming changes to allow a court to assume or resume dependency jurisdiction or transition jurisdiction over a nonminor who satisfies these criteria. Both Governmental Affairs and CFCC staff are engaged in negotiations with Senator Beall's office to determine the best way to accomplish the Senator's original goal, which was to make sure that dual-status individuals who are incarcerated on their 18th birthday are able to take advantage of extended foster care on their release.

SB 68 (Liu D) Minor parents: reunification services

Location: Senate Judiciary Committee

Summary: Current law prohibits the court from ordering reunification for a parent or guardian described under specified provisions, unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child. This bill would instead require the court to order reunification services for a parent described under those provisions if the parent was a minor at the time when the facts that gave rise to the condition for the court to deny reunification services occurred.

SB 238 (Mitchell D) Foster care: psychotropic medication

Location: Waiting for Assignment to Committee

Summary: Would state the intent of the Legislature to enact legislation that would improve the ability of the child welfare system to track and oversee the use of psychotropic medications for children in foster care by requiring, among other things, the development of a system that triggers an alert to medical practitioners treating children in foster care when there could be potentially dangerous interactions between psychotropic medications and other prescribed medications, or when psychotropic medications have been prescribed, or prescribed in dosages, that are unusual for a child or a child of that age.

SB 253 (Monning D) Dependent children: psychotropic medication

Location: Waiting for Assignment to Committee

Summary: Current law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. This bill would require an order authorizing administration of psychotropic medications to only be granted on clear and convincing evidence of specified matters, and would prohibit the court from authorizing the administration of psychotropic medications for a child unless a 2nd independent medical opinion is obtained from a child psychiatrist or a psychopharmacologist if one or more specified circumstances exist.

Juvenile Delinquency Bills

AB 424 (Gaines R) Court appointed child advocates: wards

Location: Waiting for Assignment to Committee

Summary: Would authorize the appointment of a CASA in a juvenile delinquency proceeding.

Family Law and Juvenile Law Subcommittee Meetings

Family Law Subcommittee Meeting

FEBRUARY 26, 2015
1:35-4:00 P.M.
SAN FRANCISCO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS



Judicial Council of California
 Operations and Programs Division
 Center for Families, Children & the Courts
 455 Golden Gate Avenue, 6th Floor
 San Francisco, California 94102-3688

Date Received:	_____
Approval Date:	_____
Response Date:	_____

**Request for Approval of Training
 pursuant to
 California Rules of Court, rule 5.210; 5.225; 5.215/5.230 and/or 5.518**
<http://www.courts.ca.gov/rules.htm> [See "Title Five. Family and Juvenile Rules"]

1. This training approval request is from:

Provider: You are requesting approval for training/education that you are offering, co-sponsoring, or submitting on behalf of an external agency.

Attendee: You are requesting approval for training/education that you have attended and completed.

2. Contact Information:

Name: _____ Professional organization: _____

Mailing address: _____ City: _____ Zip code: _____

Contact number: _____ Fax number: _____

E-mail address: _____

3. FOR PROVIDERS ONLY: Please identify the nature of your organization (*check all that apply*):

Court connected Professional association

Educational institution Professional continuing education group

Public or private for-profit or not-for-profit group Other: _____

4. Training / workshop / conference: (If multiple educational events, please submit separate approval forms.)

Title: _____ Number of training hours: _____

Date(s): _____ [Note: If multiple Rules selected in Section 5 below, list number of training hours sought for each Rule.]

Location: _____

5. I am requesting approval for the above training pursuant to California Rules of Court: (check all that apply)

<input type="checkbox"/> 5.210 Mediator training Director training	toward initial 40 hours	toward 8 hours annual continuing education toward 24 hours additional directors training
<input type="checkbox"/> 5.225 Evaluator training <i>Required: Attachment A</i>	toward initial 40 hours	toward 8 hours annual continuing education
<input type="checkbox"/> 5.518 Juv. Dep. Mediator training <i>Required: Attachment B</i>	toward initial 40 hours	toward 12 hours annual continuing education
<input type="checkbox"/> 5.215/5.230 Domestic violence training for child custody mediators, recommending counselors, evaluators & directors (pursuant to FC §1816) <i>Required: Attachment C</i>	toward initial 16 hours	toward 4 hours annual update training

6. Providers and Attendees must submit the following required documentation with this training request form:

- Agenda, outline, or description of event that documents title, content, trainer, date, time, hours, and location.
- Information about qualifications of trainer, if not included on accompanying documents.
- When requesting approval pursuant to Rule 5.225, submit Attachment A; for Rule 5.518, submit Attachment B; for Rules 5.215/5.230, submit Attachment C.
- For attendees only**, also submit certificate of course completion.
- For court providers only**, with requests for approval of initial 40 hours of training pursuant to 5.210, please indicate in your accompanying documentation the subject matter covered in the various segments of the training.

7. FOR PROVIDERS ONLY – Attestations

- Provider acknowledges that approval means that the training addresses subject matter areas specifically mandated in California Rules of Court, rule 5.210; 5.225; 5.215/5.230; and/or 5.518. Approval is not intended to guarantee the quality of the training or to imply that the Judicial Council of California endorses the views expressed in the training.
- Provider agrees to comply with requirements specified in applicable California Rules of Court as noted above. This includes 1) ensuring that instructors are experts in the training subject matter and 2) developing a procedure to verify that participants complete the training.
- Provider agrees to provide course completion certificates to all participants. The certificate must include the participant's name, course title, date, and number of hours completed.
- Provider agrees to provide course evaluation forms to participants at the conclusion of the training and to use participant responses to monitor and evaluate the quality of courses, curricula, training, instructors, and consultants.
- Provider acknowledges that approval for this activity may be revoked for non-compliance with the applicable California Rules of Court, and amendments thereto, or for failure to comply with the agreements and certifications contained in this form.
- If provider uses promotional materials prior to activity approval, provider agrees to specify in all such materials that application for activity approval is pending and to advise all participants as soon as possible whether or not activity approval is granted.

8. This training approval request form and attachments are submitted via:

- E-mail:** to cfcc@jud.ca.gov (with subject heading – Attn: Family Dispute Resolution Coordinator)
- Fax: (415) 865-7217 or (415) 865-4399:** Attn: Family Dispute Resolution Coordinator
- Mail:** Attn: Family Dispute Resolution Coordinator (to the address at top of page 1)

This form and any accompanying attachments will become part of the public record and will be subject to inspection by anyone making a public information request under California Rules of Court, rule 10.500.

Submission of this form does not constitute the Judicial Council of California's approval for the education activity. Approval will become effective as specified in the letter that the Judicial Council of California's Center for Families, Children & the Courts will send in response to this request.

9. DECLARATION: *(Must be completed by provider or attendee):*

BY TYPING MY NAME BELOW, OR IN THE ALTERNATIVE SIGNING MY NAME BELOW, I DECLARE UNDER PENALTY OF PERJURY, UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE ABOVE INFORMATION I HAVE PROVIDED IN THE FORM AND IN ANY ACCOMPANYING ATTACHMENTS IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Provider or Attendee Name: _____
(Print Name)

Signature (optional): _____ Date: _____

Note: This application will be returned if name and date are not stated, or application is incomplete.

Thank you for completing this form. Please include all required documentation when submitting. (See Box 6.)

FOR CFCC OFFICE USE ONLY:

Received by: _____ Date: _____

Reviewed by: _____ Date: _____

Second Reviewer: _____ Date: _____

Additional Reviewer: _____ Date: _____

Response Letter Sent by: _____ Date: _____

Approved: _____ Not Approved: _____ Comments: _____

ATTACHMENT A — RULE OF COURT 5.225 — CHILD CUSTODY EVALUATOR TRAINING

Please check the topics that the training covers. **If this is a multi-workshop training event, please specify which workshops relate to which topics below (use separate sheet if necessary).**

- 1. The psychological and developmental needs of children, especially as those needs relate to decisions about child custody and visitation (5.225(d)(1));
- 2. Family dynamics, including, but not limited to, parent-child relationships, blended families, and extended family relationships (5.225(d)(2));
- 3. The effects of separation, divorce, domestic violence, child sexual abuse, child physical or emotional abuse or neglect, substance abuse, and interparental conflict on the psychological and developmental needs of children and adults (5.225(d)(3));
- 4. The assessment of child sexual abuse issues required by Family Code section 3118; local procedures for handling child sexual abuse cases; and the effect that court procedures may have on the evaluation process when there are allegations of child sexual abuse; and the areas of training required by Family Code Section 3110.5(b)(2)(A)-(F) as listed below (5.225(d)(4)). Check all that apply:
 - Children's patterns of hiding and disclosing sexual abuse in a family setting;
 - The effects of sexual abuse on children;
 - The nature and extent of sexual abuse;
 - The social and family dynamics of child sexual abuse;
 - Techniques for identifying and assisting families affected by child sexual abuse; and
 - Legal rights, protections, and remedies available to victims of child sexual abuse.
- 5. The significance of culture and religion in the lives of the parties (5.225(d)(5));
- 6. Safety issues that may arise during the evaluation process and their potential effects on all participants in the evaluation (5.225(d)(6));
- 7. When and how to interview or assess adults, infants, and children; gather information from collateral sources; collect and assess relevant data; and recognize the limits of data sources' reliability and validity (5.225(d)(7));
- 8. Importance of addressing issues such as general mental health, medication use, and learning or physical disabilities (5.225(d)(8));
- 9. Importance of staying current with relevant literature and research (5.225(d)(9));
- 10. How to apply comparable interview, assessment, and testing procedures that meet generally accepted clinical, forensic, scientific, diagnostic, or medical standards to all parties (5.225(d)(10));
- 11. When to consult with or involve additional experts or other appropriate persons (5.225(d)(11));
- 12. How to inform each adult party of the purpose, nature, and method of the evaluation (5.225(d)(12));
- 13. How to assess parenting capacity and construct effective parenting plans (5.225(d)(13));

- 14. Ethical requirements associated with the child custody evaluator's professional license and rule 5.220 (5.225(d)(14));
- 15. The legal context within which child custody and visitation issues are decided and additional legal and ethical standards to consider when serving as a child custody evaluator (5.225(d)(15));
- 16. The importance of understanding relevant distinctions among the roles of evaluator, mediator, and therapist (5.225(d)(16));
- 17. How to write reports and recommendations, where appropriate (5.225(d)(17));
- 18. Mandatory reporting requirements and limitations on confidentiality (5.225(d)(18));
- 19. How to prepare for and give court testimony (5.225(d)(19));
- 20. How to maintain professional neutrality and objectivity when conducting child custody evaluations (5.225(d)(20)); and
- 21. The importance of assessing the health, safety, welfare, and best interest of the child or children involved in the proceedings (5.225(d)(21)).

ATTACHMENT B — RULE OF COURT 5.518 — JUVENILE DEPENDENCY MEDIATOR TRAINING

Please check the topics that the training covers. **If this is a multi-workshop training event, please specify which workshops relate to which topics below (use separate sheet if necessary).**

- 1. Multiparty, multi-issue, multiagency, and high-conflict cases, including (5.518(e)(3)(A)):
 - (i) The roles and participation of parents, other family members, children, attorneys, guardians ad litem, children's caregivers, the child welfare agency staff, CASA volunteers, law enforcement, mediators, the court, and other involved professionals and interested participants in the mediation process;
 - (ii) The impact that the mediation process can have on a child's well-being, and when and how to involve the child in the process;
 - (iii) The methods to help parties collaboratively resolve disputes and jointly develop plans that consider the needs and best interest of the child;
 - (iv) The disclosure, recantation, and denial of child abuse and neglect;
 - (v) Adult mental health issues; and
 - (vi) The requirements of the laws incorporated in rule 5.651(a)(3) and strategies for appropriately addressing the individual needs of persons with disabilities;
- 2. Physical and sexual abuse, exploitation, emotional abuse, endangerment, and neglect of children, and the impacts on children, including safety and treatment issues related to child abuse, neglect, and family violence (5.518(e)(3)(B));
- 3. Family violence, its relevance to child abuse and neglect, and its effects on children and adult victims, including safety and treatment issues related to child abuse, neglect, and family violence (5.518(e)(3)(C));
- 4. Substance abuse and its impact on children (5.518(e)(3)(D));
- 5. Child development and its relevance to child abuse, neglect, and child custody and visitation arrangements (5.518(e)(3)(E));
- 6. Juvenile dependency and child welfare systems, including dependency law (5.518(e)(3)(F));
- 7. Interfamilial relationships and the psychological needs of children, including, but not limited to (5.518(e)(3)(G)):
 - (i) The effect of removal or nonremoval of children from their homes and family members; and
 - (ii) The effect of terminating parental rights;
- 8. The effect of poverty on parenting and familial relationships (5.518(e)(3)(H));
- 9. Awareness of differing cultural values, including cross-generational cultural issues and local demographics (5.518(e)(3)(I));
- 10. An overview of the special needs of dependent children, including their educational, medical, psychosocial, and mental health needs (5.518(e)(3)(J)); and
- 11. Available community resources and services for dealing with domestic and family violence, substance abuse, and housing, educational, medical, and mental health needs for families in the juvenile dependency system (5.518(e)(3)(K)).

ATTACHMENT C — RULES OF COURT 5.215/5.230 — DOMESTIC VIOLENCE TRAINING

Please check the topics that the training covers. **If this is a multi-workshop training even, please specify which workshops relate to which topics below (use separate sheet if necessary).**

16 HOUR ADVANCED TRAINING

12 HOURS INSTRUCTION:

- 1. The appropriate structuring of the child custody evaluation process, including, but not limited to, maximizing safety for clients, evaluators, and court personnel; maintaining objectivity; providing and gathering balanced information from both parties and controlling for bias; providing for separate sessions at separate times (as specified in Family Code section 3113); and considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence (5.230(d)(1)(A)(i));
- 2. The relevant sections of local, state, and federal laws or rules (5.230(d)(1)(A)(ii));
- 3. The range, availability, and applicability of domestic violence resources available to victims including, but not limited to, battered women's shelters, specialized counseling, drug and alcohol counseling, legal advocacy, job training, parenting classes, battered immigrant victims, and welfare exceptions for domestic violence victims (5.230(d)(1)(A)(iii));
- 4. The range, availability, and applicability of domestic violence resources available to perpetrators including, but not limited to, arrest, incarceration, probation, applicable Penal Code sections (including Penal Code section 1203.097, which describes certified treatment programs for batterers), drug and alcohol counseling, legal advocacy, job training, and parenting classes (5.230(d)(1)(A)(iv)); and
- 5. The unique issues in family and psychological assessment in domestic violence cases including the following concepts (5.230(d)(1)(A)(v)(a)-(k)):
 - (a) The effects of exposure to domestic violence and psychological trauma on children; the relationship between child physical abuse, child sexual abuse and domestic violence; the differential family dynamics related to parent-child attachments in families with domestic violence; intergenerational transmission of familial violence; and manifestations of post-traumatic stress disorders in children;
 - (b) The nature and extent of domestic violence, and relationship of gender, class, race, culture, and sexual orientation to domestic violence;
 - (c) Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships;
 - (d) The assessment of family history based on the type, severity, and frequency of violence;
 - (e) The impact on parenting abilities of being a victim or perpetrator of domestic violence;
 - (f) The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases;
 - (g) The influence of alcohol and drug use and abuse on the incidence of domestic violence;
 - (h) Understanding the dynamics of high-conflict relationships and abuser/victim relationships;

- (i) The importance of, and procedures for, obtaining collateral information from probation departments, children's protective services, police incident reports, restraining order pleadings, medical records, schools, and other relevant sources;
- (j) Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety welfare and best interest of the child, and safeguards for the parties; and
- (k) The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against any family member.

4 HOURS COMMUNITY RESOURCE NETWORKING:

Four hours of community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the families being evaluated may reside (5.230(d)(1)(B)).

(Note: There is no checkbox in front of this 4 hours community resource networking requirement because the manner in which you fulfill this specific requirement does not require approval from the Judicial Council of California.)

4-HOUR ANNUAL DOMESTIC VIOLENCE UPDATE TRAINING CONTENT:

- 1. Changes or modifications in local court practices, case law, and state and federal legislation related to domestic violence (5.230(d)(2))
- 2. Update of current social science research and theory, particularly with regard to the impact on children of exposure to domestic violence (5.230(d)(2))
- 3. Other (describe):

Discovering the Theory of Your Case and Proving it at Trial:
The Interplay Between Discovery and Admitted Evidence



THE STATE BAR OF CALIFORNIA
THE FAMILY LAW SECTION PRESENTS

6 Hours of
MCLE Credit &
6 hours of
Legal Specialization
in Family Law

REGISTRATION FORM

Note: One registrant per form. Photocopies may be used.

- | | |
|---|---|
| <input type="checkbox"/> San Diego
San Diego University
Monday, March 2, 2015 | <input type="checkbox"/> Los Angeles
The State Bar of California
Monday, March 23, 2015 |
| <input type="checkbox"/> Oakland
The State Building
Friday, April 17, 2015 | <input type="checkbox"/> Fresno
San Joaquin College of Law
Monday, May 18, 2015 |

Bar Number: _____
Name: _____
Firm: _____
Firm Address: _____
City, State: _____ Zip Code: _____
Phone Number: _____ Fax Number: _____
Email Address: _____

(Required for email confirmation)

Your name and email address may be disclosed to other 2015 Family Law Essentials attendees.

Check here if you do not want your information released.

REGISTRATION FEES

By deadline as noted above, late registrations subject to space availability.

Full Day Program and Networking Lunch

- Family Law Section Members – \$300.00 Pre-Registration (\$330.00 On-Site)
 Non-Members – \$370.00 Pre-Registration (\$400.00 On-Site)
 Non-Profit Discount – 25% off

· Non-Member pricing includes a section membership for 2015 at a \$25.00 discount.

CREDIT CARD INFORMATION (VISA/MasterCard Only)

I authorize The State Bar of California to charge my program registration to my VISA/MasterCard account.
(No other credit card will be accepted.)

Account Number: _____

(Visa or MasterCard only)

Expiration Date: _____

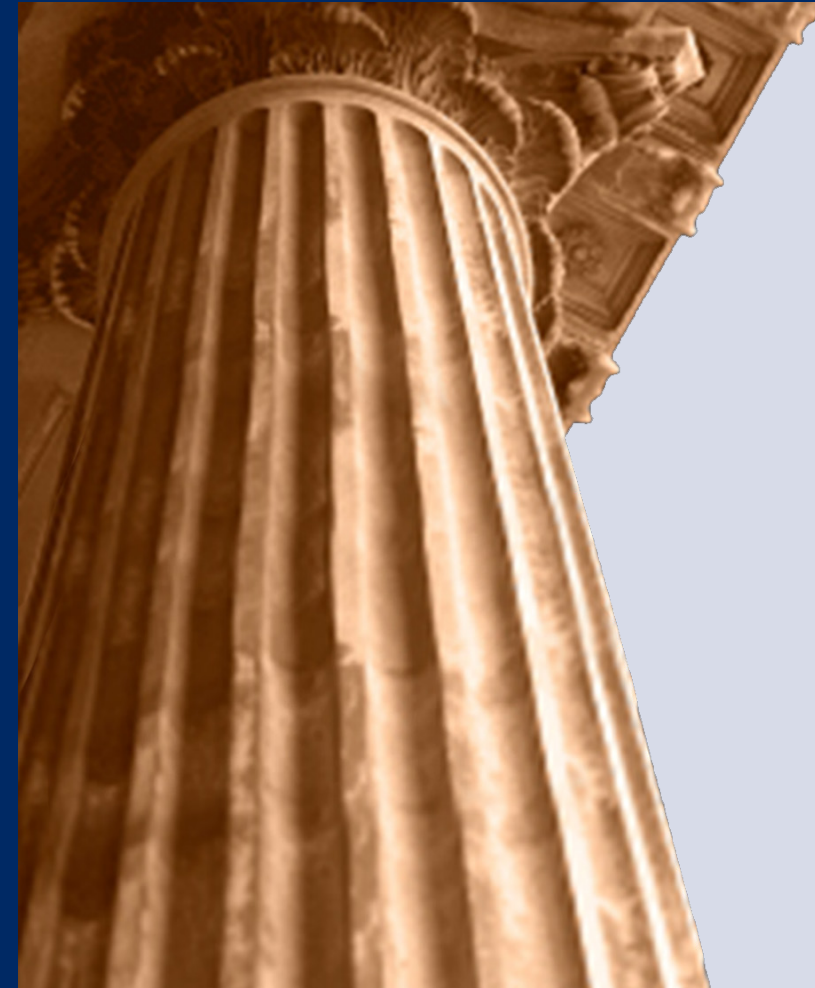
Cardholder's Name: _____

Cardholder's Signature: _____

Deadline: In order to pre-register, your form and check, payable to The State Bar of California, or credit card information, must be received 5 days prior to the program.

Mail To: Program Registrations, The State Bar of California,
180 Howard Street, San Francisco, CA 94105

Fax To: Program Registration at 415-538-2368. In order to fax your registration, credit card information is MANDATORY.
(Photocopies of checks will NOT be accepted.)



FAMILY LAW ESSENTIALS Discovering the Theory of Your Case and Proving it at Trial: The Interplay Between Discovery and Admitted Evidence

San Diego: March 02, 2015
Los Angeles: March 23, 2015
Oakland: April 17, 2015
Fresno: May 18, 2015

**Earn 6 Hours MCLE and Legal Specialization Credit
in Family Law**



The State Bar of California and The Family Law Section are approved State Bar of California MCLE providers.

Register Online <http://familylaw.calbar.ca.gov>

Register Online <http://familylaw.calbar.ca.gov>

PROGRAM SCHEDULE

BREAKFAST AND REGISTRATION

8:00a.m. - 9:00a.m.

PRESENTERS

- Honorable Mark Albert Juhas
- Honorable Sue Alexander
- Honorable Jame Mitchell Mize
- Honorable Maureen Frances Hallahan
- Barbara K. Hammers, ACFLS
- John Daniel Hodson, ACFLS, AAML

DISCOVERY

MAPPING OUT A SUCCESSFUL DISCOVERY PLAN

9:00a.m. - 10:00a.m.

Formal discovery or voluntary exchange? Shotgun approach or narrowly tailored? What you need to know to map out a successful plan of discovery. This hour will cover the types of discovery you may need, the various ways of getting what you want, and whether or not you actually need it at all. Learn to assess your case for a discovery plan that allows you to prepare for settlement or trial in its early stages.

IMPLEMENTING THE PLAN: HOW TO CONDUCT DISCOVERY

10:00a.m. - 11:00a.m.

Learn the nuts and bolts of propounding and responding to discovery, understanding the processes involved in the various methods, and the pros and cons to each. Tips on timing, how to deal with obstreperous opposing counsel and uncooperative clients along with declarations of disclosure.

BREAK

11:00a.m. - 11:15a.m.

THE DISCOVERY PROCESS: KEEPING IT UNDER CONTROL

11:15a.m. - 12:15p.m.

This hour will delve into the issues surrounding both sides of the discovery process. Subjects covered will include the use of proper objections to discovery, extensions, protective orders, handling improper discovery responses, meet and confer, compelling discovery, sanctions, and the use of a discovery referee among others.

NETWORKING LUNCHEON

12:15p.m. - 1:30p.m.

EVIDENCE

WITNESS TESTIMONY: THE ART OF SELLING THE TRIER OF FACT THROUGH EXAMINATION

1:30p.m. - 2:30p.m.

Knowing the witnesses that will best tell your client's story can make or break the case. The panel will discuss aspects of testimony offered by both expert and lay witnesses, as well as processes that can be used to set forth your best case.

BREAK

2:30p.m. - 2:45p.m.

UTILIZING THE RESULTS OF THE DISCOVERY PROCESS TO YOUR ADVANTAGE

2:45p.m. - 3:45p.m.

Now that you have it, how do you use it? Sometimes your best evidence isn't going to take the witness stand. This hour focuses on how to get documentary evidence admitted, as well as how to keep your opponent's evidence out. The panel will pay special attention to the nuances of social media evidence, the actual process of getting the fruits of your discovery efforts into evidence, and practical advice about preparing your document presentation.

BRINGING IT ALL TOGETHER: BEYOND THE DISCOVERY TO SEAL THE CASE

3:45p.m. - 4:45p.m.

What other aspects of evidence will the practitioner need for success at trial? The course wraps up with an overview of various additional evidentiary considerations that will bear heavily on the final outcome. The panel emphasizes burdens of proof, presumptions, judicial notice, objections, and the practical aspects of the presentation of your case.

REGISTRATION INFORMATION

REGISTRATION ONLINE: <http://familylaw.calbar.ca.gov>

PRE-REGISTRATION BY MAIL:

Your pre-registration must be received no later than 1-week in advance of the selected program location noted as follows:

San Diego, Monday, March 2, 2015

Los Angeles, Monday, March 23, 2015

Oakland, Friday, April 17, 2015

Fresno, Monday, May 18, 2015

PRE-REGISTRATION BY FAX:

Please fax your pre-registration to Program Registrations at 415-538-2368 no later than the above noted deadlines for each location. Credit card information is mandatory. Do not mail originals.

ON-SITE REGISTRATIONS:

On-site registration opens at 8:00 a.m. and is subject to space availability.

CANCELLATIONS/REFUND POLICY:

Cancellations and requests for refunds must be received in writing no later than 5 days prior to the program and are subject to a \$25 service charge. Refunds will not be available after this date.

SPECIAL ASSISTANCE: Please call 415-538-2238

QUESTIONS: For registration information, please call 415-538-2508. For program content and Section information, please call 415-538-2238.

SAN DIEGO

Monday, March 2, 2015

MCC Auditorium
University of San Diego
5998 Alcalá Park
San Diego, CA 92110

OAKLAND

Friday, April 17, 2015

The State Building
1515 Clay Street
Oakland, CA 94612

LOS ANGELES

Monday, March 23, 2015

The State Bar of California
Los Angeles Offices
845 S Figueroa Street
Los Angeles, CA 90017

FRESNO

Monday, May 18, 2015

San Joaquin College of Law
901 5th Street
Clovis, CA 93612

Juvenile Law Subcommittee Meeting

FEBRUARY 26, 2015
1:35-4:00 P.M.
SAN FRANCISCO, CA



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

Juvenile Law: Competency Issues

Annual Agenda Item:

To enrich recommendations to the council and avoid duplication of effort, members of the committee will collaborate with members of the Collaborative Justice Courts Advisory Committee, and former members of the Mental Health Task Force serving on other advisory bodies, to consider developing recommendations to the Judicial Council to: (1) revise rule 5.645 to define appropriate evaluation tools for use with juveniles, (2) amend legislative language to clarify the presumption of competency, (3) suggest other legislative changes necessary to improve the handling of cases where competency issues are raised, and (4) identify effective practices developed by local courts to address juvenile cases in which competency is a factor.

Background:

Effective January 1, 2012, the council at the recommendation of the committee amended rule 5.645(d) of the California Rules of Court to specify the qualifications of experts evaluating children's competency to participate in juvenile proceedings as required by changes to WIC 709 enacted in 2010. At that time the committee also considered drafting proposed legislation to more comprehensively address this issue but decided that the complexity of the issues coupled with the need to address core issues during the economic downturn warranted posting discussion.

The Task Force for Criminal Justice Collaboration on Mental Health Issues examined mental health issues in juvenile court and while no recommendations in the April 2011 report specifically dealt with the issue of expert qualifications, the task force noted that procedures to determine competency should be clarified and improved. The Implementation Task force was scheduled to sunset on June 30, 2014. In order to help meet the ongoing and emerging needs of the courts, the Mental Health Issues Implementation Task Force was extended to December 31, 2015. This extension will allow the Implementation Task Force to (1) support the projects that are currently in progress and (2) complete the process of reassigning the work while providing a single body with mental health expertise to guide the transition.

Update:

In 2014, the Family and Juvenile Law Advisory Committee decided to continue working with the Collaborative Justice Courts Advisory Committee and Mental Health Issues Implementation Task Force on the drafting of proposed legislation. A Joint Juvenile Competency Issues Working Group was formed with members from all three bodies. The working group sought informal comment from court stakeholders in the juvenile justice community on the draft legislation and has incorporated that input into the current proposed legislation. The chart addressing the stakeholder comments and the current draft of the legislation are attached. The working group is presenting the current draft to the advisory bodies in the winter and spring of 2015. The hope is for the Judicial Council to take action on the proposal at their December 11, 2015 meeting.

Welfare and Institutions Code §709

1
2
3 709.

4 (a) ~~A minor cannot be tried or adjudged a ward while that minor is mentally~~
5 incompetent. Whenever the court believes that a minor who is subject to any juvenile
6 proceedings is mentally incompetent, the court must suspend all proceeding and proceed
7 pursuant to this section. A minor is mentally incompetent for purposes of this section if,
8 as a result of mental illness, mental disorder, developmental disability, or developmental
9 immaturity, the minor is unable to understand the nature of the delinquency proceedings
10 or to assist counsel in the conduct of a defense in a rational manner. Except as a
11 specifically provided otherwise, this section applies to a minor who is alleged to come
12 within the jurisdiction of the court pursuant to §601 or §602.

13
14 (b) (1) ~~During the pendency of any juvenile proceeding, the minor's counsel, or any~~
15 party, participant, or the court may express a doubt as to the minor's competency. Doubt
16 expressed by a party or participant does not automatically require suspension of the
17 proceedings, but is information that must be considered by the court. A minor is
18 incompetent to proceed if he or she lacks sufficient present ability to consult with counsel
19 and assist in preparing his or her defense with a reasonable degree of rational
20 understanding, or lacks a rational as well as factual understanding, of the nature of the
21 charges or proceedings against him or her. Incompetency to stand trial may result from
22 the presence of any condition or conditions that result in an inability to assist counsel or
23 understand the nature of the proceedings, including but not limited to mental illness or
24 mental disorder, developmental disability, or developmental immaturity If the court finds
25 substantial evidence that raises a reasonable doubt as to the minor's competency, the
26 proceedings shall be suspended.

27 (eb) Upon suspension of proceedings, the court shall order that the question of the
28 minor's competence be determined at an evidentiary hearing, unless a stipulation or
29 submission by the parties is made to the court. At an evidentiary hearing, ~~minor's counsel~~
30 the minor has the burden of establishing by a preponderance of the evidence that ~~the~~

1 ~~minor~~ he or she is incompetent to proceed. The court shall appoint an expert to evaluate
2 whether the minor suffers from a mental illness or mental disorder, developmental
3 disability, developmental immaturity, or other condition affecting competence and, if so,
4 whether the condition or conditions impair the minor's present capacity to assist counsel
5 or understand the nature of the proceedings.

6 (1) The expert shall have expertise in child and adolescent development, ~~training in~~ and
7 forensic evaluation of juveniles, and shall be familiar with competency standards and
8 accepted criteria used in evaluating competence.

9 (2) The expert shall personally interview and review all the available records provided,
10 including but not limited to medical, education, special education, child welfare, mental
11 health, regional center and court records. The expert shall consult with the minor's
12 defense attorney and whoever raised a doubt of competency, ~~if that person is different~~
13 from the minor's attorney, to ascertain their his or her reasons for doubting competency.
14 The expert shall gather a developmental history of the minor. When standardized testing
15 is used, the expert shall administer age- appropriate testing specific to the issue of
16 competency, unless the facts of the particular case ~~render testing unnecessary or~~
17 inappropriate. ~~This expert shall state~~ In the written report, ~~the expert shall opine~~ whether
18 the minor has the sufficient present ability to consult with his or her attorney with a
19 reasonable degree of rational understanding and whether he or she has a rational as well
20 as factual understanding of the proceedings against him or her. The expert shall also state
21 the reasons for making ~~the basis for these~~ the conclusions, as well as address the ~~what~~
22 type of treatment ~~that~~ would be effective in restoring the minor to competency, and
23 ~~whether~~ ~~the likelihood that the~~ the minor can attain competency within a reasonable
24 period of time.

25 (3) The Judicial Council shall develop a rule of court outlining the training and
26 experience needed for an expert to be competent in forensic evaluations of juveniles and
27 shall develop and adopt rules for the implementation of other requirements related to
28 subdivision.

29
30 (dc) Statements made ~~to the appointed expert~~ during the ~~examination~~ minor's
31 competency evaluation ~~examination~~ by the minor to appointed experts, ~~statement made to~~

1 ~~experts which are submitted to the court on the issue of the minor's competence, and any~~
2 ~~statements made at trial by the appointed expert on the issue of the minor's competency,~~
3 ~~and any fruits of the minor's competency evaluation examination, shall not be used in~~
4 ~~any other delinquency, dependency, or criminal adjudication against the minor in either~~
5 ~~juvenile or adult court.~~

6
7 (ed) At any time after the court determines that there is a likelihood the minor is
8 incompetent to stand trial, the court may, with consent of minor's counsel and the District
9 Attorney's Office, and notice to the Probation Department, and in consideration of public
10 safety, continue hearing on the pending an a Ppetition for up to twelve months without an
11 adjudication, with conducting periodic review hearings, to facilitate the provision of
12 services to address the issues that brought the minor to the attention of the court, services
13 consistent with public safety, as directed by the probation officer. Probation shall make
14 referrals and assist the family in accessing appropriate services to address the issues that
15 brought the minor before the court. This occurs without an admission and without
16 adjudging the minor a ward of the court. Upon successful completion of the voluntary
17 service program, the Court shall dismiss the proceeding.

18
19 (fe) The District Attorney or minor may retain or seek the appointment of additional
20 qualified experts, who may testify during the competency hearing. In the event of that a
21 party seeking to obtain an additional report anticipates presenting the expert's testimony
22 and/or report, the report and the expert's qualifications shall be disclosed to the opposing
23 party within a reasonable time prior to the hearing, and not later than five court days prior
24 to the hearing. If, after disclosure of the report, the opposing party may requests a
25 continuance in order to prepare further for the hearing and shows good cause for the
26 continuance, the court shall grant a continuance for a reasonable period of time upon
27 showing of a good cause.

28
29 (gf) If the expert believes the minor is developmentally disabled, the court shall
30 appoint the director of a regional center for developmentally disabled individuals

1 described in Article 1 (commencing with Section 4620) of Chapter 5 of Division 4.5, or
2 his or her designee, to evaluate the minor. The director of the regional center, or his or
3 her designee, shall determine whether the minor is eligible for services under the
4 Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with
5 Section 4500)), and shall provide the court with a written report informing the court of
6 his or her determination. The court's appointment of the director of the regional center for
7 determination of eligibility for services shall not delay the court's proceedings for
8 determination of competency.

9
10 (hg) An expert's opinion that a minor is developmentally disabled does not supersede
11 an independent determination by the regional center regarding the minor's eligibility for
12 services under the Lanterman Developmental Disabilities Services Act (Division 4.5
13 (commencing with Section 4500)).

14
15 (ih) Nothing in this section shall be interpreted to authorize or require the following:

16 (1) Placement of a minor who is incompetent in a developmental center or community
17 facility operated by the State Department of Developmental Services without a
18 determination by a regional center director, or his or her designee, that the minor has
19 a developmental disability and is eligible for services under the Lanterman
20 Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).

21 (2) Determinations regarding the competency of a minor by the director of the regional
22 center, or his or designee.

23
24 (ji) If the court finds by a preponderance of evidence, that the minor is incompetent,
25 all proceedings shall remain suspended for a period of time that is no longer than
26 reasonably necessary to determine whether there is a substantial probability that the
27 minor will attain competency in the foreseeable future, or the court no longer retains
28 jurisdiction. During this time, the court may make orders that it deems appropriate for
29 services, subject to subdivision (d). Further, the court may rule on motions that do not
30 require the participation of the minor in the preparation of the motions. These motions
31 include, but are not limited to, the following:

- 1 (1) Motions to dismiss.
- 2 (2) Motions ~~by the defense~~ regarding a change in the placement of the minor.
- 3 (3) Detention hearings.
- 4 (4) Demurrers.

5
6 ~~(k j)~~ If the minor is found to be competent, The court may shall reinstate
7 proceedings and proceed commensurate with the court's jurisdiction.

8
9 ~~(l k)~~ The Presiding Judge of the Juvenile Court, the County Probation Department,
10 the County Mental Health Department, and any other participants the Presiding Judge
11 shall designate, shall develop a written protocol and program to ensure that minors who
12 are found incompetent receive appropriate services for the remediation of competency.

13
14 ~~(m l)~~ Upon finding of incompetency the court shall refer the minor to the county's
15 remediation program, as described in (m). Remediation counselors and evaluators shall
16 adhere to the standards ~~set forth in this statute and the in subsection (c) and California~~
17 Rules of Court, ~~Rule 5. 645.~~ The program shall provide services in the least restrictive
18 environment consistent with public safety. Priority shall be given to minors in custody.
19 The Remediation counselor(s) shall promptly determine ~~whether~~ ~~the likelihood that~~ the
20 minor can attain competency within a reasonable amount of time, and if the opinion is
21 that the minor will not, the minor shall be returned to court at the earliest possible time.
22 The Court shall review remediation services at least every 30 calendar days for minors in
23 custody and every 45 calendar days for minors out of custody.

24
25 ~~(n m)~~ Upon presentation of the recommendation, the court shall hold an evidentiary
26 hearing on whether the child is remediated or is able to be remediated, unless a
27 stipulation or submission by the parties is made to the court. If the recommendation is
28 that the minor's competency has been remediated, the burden is on the minor to ~~show~~
29 prove, by a preponderance of evidence, ~~incompetence~~ ~~that the minor is incompetent.~~ If
30 the recommendation is that the minor is not able to be remediated, the ~~people~~ District

1 Attorney must demonstrate prove by a preponderance of evidence that the minor is
2 remediable. The provisions of subsection (f e) shall apply at this stage of the proceedings.

3 (1) If the court finds the minor has been remediated, the court shall reinstate the
4 delinquency proceedings.

5 (2)If the court finds the minor is not yet remediated, but is able to be
6 remediated, the court shall order the minor returned to the remediation program.

7 (3) If it appears that the minor will not achieve remediation, the court may set a
8 hearing to determine what services are necessary if there are services that would
9 be beneficial and available after dismissal of the petition. All persons and
10 agencies with information about the minor or about such services which may be
11 available to the minor shall be invited to this hearing or a meeting. Such persons
12 and agencies may include, but not be limited to, the minor and his or her
13 attorney; parents, guardians, or relative caregiver; mental health treatment
14 professionals; public guardian educational rights holder; education provider and
15 social service agency. If appropriate, the Court shall refer the minor for
16 evaluation pursuant to Welfare and Institutions Code §6550, et seq. or §5300, et
17 seq.

18
19 ~~(e) Except as a specifically provided otherwise, this section applies to a minor who~~
20 ~~is alleged to come within the jurisdiction of the court pursuant to §601 or §602.~~

21
22 (en) An expert's opinion that a minor is developmentally disabled does not
23 supersede an independent determination by the regional center whether the minor is
24 eligible for services under the Lanterman Developmental Disabilities Services Act
25 (Division 4.5 (commencing with Section 4500)).

Proposed Legislative language	Commenter	Comment	Response
<p>709 (a) A minor cannot be tried or adjudged a ward while that minor is mentally incompetent. A minor is mentally incompetent for purposes of this section if, as a result of mental disorder or developmental disability, the minor is unable to understand the nature of the delinquency proceedings or to assist counsel in the conduct of a defense in a rational manner.</p>	Forensic Evaluator	In (a)... “as a result of mental disorder or developmental disability” add same language as in (b)... mental illness or mental disorder, developmental disability, and/or developmental immaturity	Committee agrees. The same language from (b) is added.
	Public Defenders (SF/LA)	<p>This is a complete rewrite of current (a) – and it is not an improvement as far as I can see. The current statute says a minor is incompetent to proceed if he or she doesn’t meet the 2-pronged test. This change would allow an incompetent minor to be subjected to a variety of things other than trial. Also, it takes out important detail from the Dusky test – such as having sufficient <u>present</u> ability to consult with counsel...also, it takes out the concept of developmental immaturity, and limits the reasons for incompetence – thus undermining Timothy J. and other case law. Also, it duplicates and conflicts with the reasons for incompetence in (b).</p> <p>Was there a problem these amendments were trying to solve, and if so, could it be done in some other way? My preference would be to leave (a) as it is currently written.</p> <p>This language is less clear than that contained in current section 709(a). It mangles the standard of competence to stand trial set forth in <i>Dusky</i> and <i>Timothy J.</i> In addition, the grounds for a finding of incompetence are restricted and in conflict with the grounds</p>	<p>Committee shares some of the concerns raised. Tried or adjudged limits. You can’t really do anything until minor is competent.</p> <p>Some alternatives suggested:</p> <p>No proceedings in juvenile delinquency can proceed while a minor is mentally incompetent, except as to J.</p> <p>A petition for delinquency shall be suspended while a minor is mentally incompetent</p> <p>All proceedings are suspended is incompetent until such time the minor is deemed competent, or not likely to be restored, or dismissed</p> <p>A proceeding to have a minor adjudged a ward shall not occur while the minor is deemed mentally incompetent.</p> <p>Except for proceedings under this section addressing a minor’s competency, all proceeding are suspended while the minor is deemed incompetent. (Judge T. Preference)</p> <p>Whenever the court believes that a minor who is subject to a petition filed</p>

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		enounced in proposed section 707(b). Specifically, developmental immaturity and “other condition(s)” are absent.	under section 602 is mentally incompetent, the court must suspend all proceedings, except under this section. Staff directed to keep working on language. Intent is to frame the statute.
	Judge Gill	Suggested to change (a) to Whenever the court believes a minor who is subject to any juvenile proceedings is mentally incompetent, the court must suspend all proceedings in connection with the pending petition and proceed pursuant to this section.	Committee has yet to address this change. This change is in the current draft circulating
	Judge Tondreau	And, moving (b) as an (a)(1) Suggests that subsection (o) should be moved up	Committee has yet to address this change. This change is in the current draft circulating
<p>(b) During the pendency of any juvenile proceeding, the minor's counsel, or any party, participant, or the court may express a doubt as to the minor's competency. <u>Doubt expressed by a party or participant does not automatically require the suspension of the proceedings</u></p> <p>A minor is incompetent to proceed if he or she lacks sufficient present ability to consult with counsel and assist in preparing his or her defense with a reasonable degree of rational understanding, or lacks a rational as well as factual understanding, of the nature of the charges or proceedings against him or her. <u>Incompetency to stand trial may result from the presence of any condition or conditions that result in an inability to</u></p>	Judicial Officer Public defender	Concerns about the use of Participants	Committee decides to leave in Participants. Drope v. Missouri 420 U.S. 162 (1975)
	Judicial Officer	Is parent/guardian specifically defined in WIC or CRC?	Committee decides not to define as it is defined many places.
	Judicial Officer, Public Defender	If “any party” or “participant” expresses a doubt, what criteria will guide a judge to competently consider the expression? And if the minor’s counsel objects? Particularly with regard to the “must” in the proposed legislation?	Committee decides to leave as is. It is up to the court to decide. The standard is substantial doubt that is not unreasonable. No different standard.
	Judicial Officer	Does not agree with proposal that eliminates “minor’s counsel” and suggestively substitutes others.	Committee agrees to add back in minor’s counsel.
	Judicial Officer	In the context of this proposed legislation, are “parent/guardian” subsumed in “party or participant”?	Yes. It could be anyone who knows the child.

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<u>assist counsel or understand the nature of the proceedings, including but not limited to mental illness or mental disorder, developmental disability, or developmental immaturity</u>	Judicial Officer	Definition of developmental disability	Committee to leave the language as is. This is intended to be the definition of developmental disability under LPS.
	Public Defenders	Is the right definition and causes, but should it go up into (a)? Then what is left in (b) would just focus on the raising of the doubt and finding of substantial evidence. The first and last sentences would remain	Committee agrees with some of the proposed language from public defender. Doubt does not automatically <u>trigger</u> replaced with does not automatically <u>require</u>
	CPOC	Eliminate “to stand trial” as incompetency applies to other hearings as well	Committee has yet to address
If the court finds substantial evidence that raises a <u>reasonable</u> doubt as to the minor's competency, the proceedings shall be suspended.			

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Proposed Legislative language	Commenter	Comment	Response
(c) Upon suspension of proceedings, <u>the court shall order that the question of the minor’s competence be determined at an evidentiary hearing, unless a stipulation or submission by the parties is made to the court. At an evidentiary hearing, minor’s counsel has the burden of establishing by a preponderance of the evidence that the minor is incompetent to proceed.</u>	Judicial Officer	Issues about making this an evidentiary hearing	Committee agrees and changed language to allow option of stipulation or submission
	Public Defenders	Issues regarding minor’s counsel burden of proof to wait until <i>In re R.V.</i> is decided	Committee agrees to revisit this issue if the CA. Sup. Ct. decides issue prior to introduction of legislation
	Public Defender	What if the prosecutor raises incompetence? Or the Court? Shouldn’t the burden be on the proponent of incompetence?	Leave language as is. Committee believes this situation would not be written.
	Public Defender	Given that any party can express a doubt, shouldn’t the party who raises the issue have the burden of establishing that the minor is incompetent? The answer may depend on the Supreme Court’s decision in <i>In re RV.</i>	Committee does not agree. Committee reads current case law as requiring the minor to have the burden.
	District Attorney	Should not say “minor’s counsel” – Under adult law and R.V, the minor has the burden. So, technically, it should say the minor, Section P does say minor (Santa Clara) Concern that this does not allow for a court proceeding prior to an evidentiary hearing. In our county many cases are resolved in a non-contested manner prior to an evidentiary hearing (San Diego)	Committee has yet to address this change. This change is in the current draft circulating Committee is fine with having cases resolve prior to an evidentiary hearing, but this subsection is specifically applied when there is a dispute.

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<p>[Deleted language]...The expert shall have expertise in child and adolescent development, and training in the forensic evaluation of juveniles, and shall be familiar with competency standards and accepted criteria used in evaluating competence.</p>	<p>Judicial Officers</p>	<p>Issue regarding details of duties of the evaluator.</p>	<p>Committee understands concerns. However, Committee has decided to keep in language because of the varying practices of evaluators and that legislation is more appropriate than asking the judicial council to put the duties in a Rule of Court.</p>
<p><u>The expert shall personally interview and review all the available records provided to him/ her, including but not limited to medical, education, special education, child welfare, mental health, regional center and court records. The expert should consult with the minor’s defense attorney and whoever raised a doubt of competency to ascertain their reasons for doubting competency. The expert should gather a developmental history of the Minor. The expert must administer age-</u></p>	<p>Judicial Office</p>	<p>Now that (a) proposes “party/participant” why is the expert not being directed to the proponent of the expressed doubt?</p>	<p>Committee agrees and changed the language to include the minor’s defense attorney and whoever raised a doubt of competency</p>
<p><u>The expert should consult with the minor’s defense attorney and whoever raised a doubt of competency to ascertain their reasons for doubting competency. The expert should gather a developmental history of the Minor. The expert must administer age-</u></p>	<p>Forensic evaluator</p>	<p>Add , “and supervised experience” after training.</p>	<p>Committee does not want to legislate the type of training or expertise needed. Directs staff to add a provision for a rule of court directing the training and expertise necessary for evaluators</p> <p>Staff also directed to break (c) into subsections.</p>

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<p><u>appropriate testing specific to the issued of competency. This expert shall state in the written report whether the minor has the sufficient present ability to consult with his or her attorney with a reasonable degree of rational understanding and whether he or she has a rational as well as factual understanding of the proceedings against him or her. The expert shall also state the reasons for making the conclusion, what type of treatment would be effective in restoring the minor to competency, and whether the minor can attain competency within a reasonable period of time.</u> The Judicial Council shall develop and adopt rules for the implementation of these requirements.</p>	Public defender	<p>So this is saying that the duty to get records is with defense counsel or other proponent of the evidence? Doesn't the expert have an obligation to investigate or reach out for records and/or to interview people who know the minor?</p> <p>My preference would be to soften the language a little bit but put some duty on the expert...of course, in practice, we would hope that the proponent of incompetence helps out with all of this.</p>	Committee agrees with suggestion from commentator regarding standardized testing and changes the statutory language accordingly.
		<p>It does not seem right to say they <u>always</u> have to do the JACI or other standardized tests, because they may not be indicated in some cases or there may be appropriate reasons they cannot be given. However, if the expert does use such tests, they should use the right ones for juveniles.</p>	
	Public Defender	This restates some of the requirements listed in Cal. Rules of Ct., Rule 5.645(d).	Committee agrees to allow the Judicial Council to create a rule
District Attorney	Language which mandates expert consultation with defense attorney or whoever raised doubt of competency should be deleted to avoid any influencing or the expert (San Diego)	Committee disagrees and keeps language. Committee believes that it is imperative for the evaluator to speak with the minor's counsel and who raised doubt to get a full picture of the minor.	

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	CPOC	Because psychologists and other mental health experts have a varied degree of understanding of competency standards, it was recommended that the JCC establish training for psychologists who then are placed on a statewide list of approved evaluators. This would include psychiatrists as well. California would benefit by having an EBP approach to competency. The research is informing how we deal with competency. Also recommended they prepare a manual for those expected to provide restoration education programs. In past experience commenter found that counselors and teachers make the best restoration experts. The curriculum would be expected to be delivered statewide.	Committee has yet to address
	CPOC	Expert to have access to all records, would this mean that the court would need to subpoena them? Not sure that mental health or medical would release without a court order, or perhaps this could be clarified in the written protocol?	Committee has yet to address
	CPOC	Need to ensure that the selection process for the expert is "bias free" Wording needs to make sure that defense and DA offices are not able to make these selections, as they will hire whomever they believe will give them the assessment they want	Committee has yet to address
	Probation	Should read "court records and other documents provided by probation."	Committee has yet to address
	Probation	"minor can attain competence within a reasonable period of time." Vague and could lead to a wide range of	Committee has yet to address

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		<p>interpretations</p> <p>What does this really mean in a case of a minor whom developmental immaturity is the basis for the declaration of doubt?</p>	
	<p>Probation</p>	<p>Standards to be used to establish and restore competence should also be developed in partnership with clinical experts and be put in a Rule of Court</p>	<p>Committee has yet to address</p>

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Proposed Legislative language	Commenter	Comment	Response
<u>(d) Statements made during the examination by the minor to appointed experts, statement made to experts pursuant to Evidence Code §1017 which are submitted to the court on the issue of competence, and any statements made at trial on the issue of competency, and any fruits of the competency examination, shall not be used in any other delinquency or criminal adjudication against the minor in either juvenile or adult court.</u>	Judicial Officers	Language seems broad. Consider: “No statements, admissions, or confessions made by, or incriminating information obtained from, a minor in the course of a JCST evaluation shall be admitted into evidence or used against the minor in any juvenile, criminal, or civil proceeding.”	Committee disagrees and keeps current language. Current language reflects People v. Arcega , 32 Cal.3d 504
	Public Defender	Think it should be moved closer to the discussion about the evidentiary hearing—maybe after subsection (c) if you do not keep subsection (d), or after subsection (d) if you do keep it	Was (h) and now (d)
	Child Advocate	Add dependency to types of adjudication because so many youth with disabilities are also teen parents	Committee Agrees and adds dependency
	Public Defender	Evid. Code § 1017 does not apply to competency hearings. Rather, Evid. Code § 1017 applies to communications made during the course of an evaluation relating to “a plea based on insanity or to present a defense based on his or her mental or emotional condition.” A hearing to determine competence to stand trial is neither of these things. It is not necessary to mention a code section to convey the prohibition of using information gathered by an expert during a competency evaluation in a latter juvenile or adult adjudication. What happens if the evidence code gets re-written?	Committee agrees and removes mention of Evidence Code 1017.
	Judge Gill	The statute as written is unclear, proposes rewrite	Committee has yet to address this rewrite This change is in the current draft circulating

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	Probation	“statements made by the minor or expert shall not be used as evidence...”	Committee has yet to address
<p><u>(e) At any time after the court determines that the minor may be incompetent to stand trial, the court may, with consent of minor’s counsel and the District Attorney’s Office, and notice to the Probation Department, continue hearing on an a Petition for up to twelve months and permit the minor to participate in a voluntary diversion program consistent with public safety, directed by the probation officer the minor shall be released from custody. Probation shall make referrals and assist the family in accessing appropriate services to address the issues that brought the minor before the court. This occurs without an admission and without adjudging the minor a ward of the court. Upon successful completion of the voluntary service program, the Court shall dismiss the proceeding.</u></p>	Judicial officers	Issue regarding DA consent	Committee keeps language
		Limit use to non- 707 B offenses?	Committee decides this would be too limiting
		Eliminate Probation role?	Committee wants to keep probation
		Funding?	Committee does not want to address funding at this stage
	Is this a diversion program?	Yes, Committee changes language to explicitly say diversion	
	Forensic Evaluator	<ul style="list-style-type: none"> - Voluntary service program and dismissal appears to conflict with procedures in (p) - 12 months may not be a sufficient period of time for remediation - Recommends that referral process be designated in local protocol 	Committee understands confusion with this section and rewrites to emphasis that this is a diversion program. The diversion program should be a short period of time.
	District Attorney	<ul style="list-style-type: none"> -One year rule is outrageous -Concern about directing the minor to be released - Concern that the court has to get consent from both the Defense and DA because could provide gamesmanship and the defense will declare doubt in every serious case with the hope of getting the court to pressure the DA into agreeing to a voluntary service program (Santa Clara) - Concern about funding (San Diego) 	<p>Committee discusses whether this section is needed because of diversion under 654.2. Committee agrees that it is needed because section 654.2 requires consent.</p> <p>Discussion regarding 6 to 12 months.</p> <p>Add language regarding period hearings</p>

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	Public Defender	<p>Is it already clear, or should we specify that this includes the case in chief as well as impeachment? (in first part of (e))</p> <p>I can tell that the drafters are trying to figure this one out, but am still concerned about how we could do diversion of minors <u>after</u> a finding of incompetence. Ideally this would happen earlier – when the doubt as to competence is raised and there is some indication of the minor’s limitations, but before he/she spends weeks or months in custody. Also, an earlier diversion process would keep us out of the quagmire of ordering an incompetent youth to participate in services.</p>	<p>Commentator suggested some language. Part of that language was adopted by the Committee for use.</p>
	Public Defender	<ul style="list-style-type: none"> - At what point in the proceedings in this? - Do you have to have a hearing to do this? - What happens if the minor does not successfully complete the voluntary service program? Does he or she go to remediation? - What about statements said during this period? 	<p>Committee addresses the confusion with this section with new language.</p>
	Judge Gill	Proposed rewrite to make clear	Committee has yet to address this rewrite This change is in the current draft circulating
	Probation	“Provision of services to address the issues that brought minor to the attention of the court” – Statement is unclear a the offense is typically the issue. Maybe the intent is to identify issues and concerns related to the	Committee has yet to address

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		<p>minor's adjustment within the community, assessment of social and family dynamics, and the development of an intervention plan that includes goals and action steps.</p> <p>What options are available if the minor and/or family do not actively engage and participate in, or fail to successfully complete a voluntary service program?</p>	
		<p>Issue presented about defense opportunity to redact the report prior to sharing with prosecution and judge (MMM comment - I think this is meant to be a comment under the appointment of other experts to be used at trial)</p>	<p>Committee has yet to address</p>

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Proposed Legislative language	Commenter	Comment	Response
<p><u>(f) The District Attorney or the minor may retain or seek the appointment of additional qualified experts, who may testify during the competency hearing. In the event of a party seeking to obtain an additional report anticipates presenting the expert's testimony and/or report, the report and the expert's qualifications shall be disclosed to the opposing party within a reasonable time prior to the hearing, and not later than five court days prior to the hearing. If, after disclosure of the report, the opposing party may request a continuance in order to prepare further for the hearing, the court shall grant a continuance for a reasonable period of time upon showing of a good cause.</u></p>	Judicial Officers	Eliminate language. Current law contemplates one expert, do not encourage more evaluations	Committee disagrees. The language says that they can retain at own cost or seek from the court. Court does not need to grant the request.
		Concerns about confidentiality language	Committee agrees and strikes language
	Public Defender	This should be consistent with the language in section (b) which indicates that any party or participant may express a doubt. If that's the case, the highlighted section should be revised to include any party to the competency hearing.	Committee disagrees and believes only the district attorney can seek the appointment of a qualified expert. Committee does not want to open it up for the grandparent or parent to seek another evaluation.
	District Attorney	<ul style="list-style-type: none"> - Does not seem to allow adequate time for discovery. It says if one side receives a private report, they can disclose the report 5 days before the hearing. This does not give enough time to get or analyze the other things needed such as expert's notice, testing material, etc. (Santa Clara) - Concern that this will bind all to 1 evaluation. Our protocol allows for up to 3 (San Diego) 	Committee discusses and urges the party to request a continuance if 5 days is not enough.
	Public Defender	Not enough time. Should be 30 days as it is in the criminal and civil discovery statutes	Committee believes that the DA or minor can seek more or retain more than one. If they seek more than one, it is up to the court to decide whether to appoint.
			Committee is concerned with delaying the proceedings another 30 days.

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Proposed Legislative language	Commenter	Comment	Response
<p>(h) An expert's opinion that a minor is developmentally disabled does not supersede an independent determination by the regional center regarding the minor's eligibility for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).</p> <p>(i) Nothing in this section shall be interpreted to authorize or require the following:</p> <p>(1) Placement of a minor who is incompetent in a developmental center or community facility operated by the State Department of Developmental Services without a determination by a regional center director, or his or her designee, that the minor has a developmental disability and is eligible for services under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500)).</p> <p>(2) Determinations regarding the competency of a minor <u>by the director of the regional center, or his or designee.</u></p>	<p>District Attorney</p>	<p>In (h) and (i) In cases where minor is regional center eligible, but the regional center denies services, and the court determines minor continues to be a danger to the public, the court should be able to make orders it deems appropriate for additional services. (San Diego)</p> <p>Question is: What are we supposed to do with the really violent, dangerous kid that can't be restored? There is no guidance in the statute about what to do if restoration can't be achieved</p>	<p>Committee disagrees. This is about competency and not dangerousness. Dangerousness is a separate issue.</p>

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<p>(j) If the court finds by a preponderance of evidence, that the minor is incompetent, all proceedings shall remain suspended for a period of time that is no longer than reasonably necessary to determine whether there is a substantial probability that the minor will attain competency in the foreseeable future, or the court no longer retains jurisdiction. During this time, the court may make orders that it deems appropriate for services, subject to subdivision Further, the court may rule on motions that do not require the participation of the minor in the preparation of the motions. These motions include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (1) Motions to dismiss. (2) Motions by the defense regarding a change in the placement of the minor. (3) Detention hearings. (4) Demurrers. 	<p>District Attorney</p>	<p>(j)(2) include motions by the People regarding change in placement (San Diego)</p>	<p>Committee agrees and deletes “by the defense”</p>
<p>(k) If the minor is found to be competent, the court may proceed commensurate with the court’s jurisdiction.</p>	<p>District Attorney</p>	<p>In (k) add additional court finding regarding dangerousness. (San Diego)</p>	<p>Committee disagrees. The findings are regarding competency, not dangerousness.</p>
	<p>Judge Tondreau</p>	<p>Proposed rewrite</p>	<p>Committee has yet to address this rewrite This change is in the current draft circulating</p>

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Proposed Legislative language	Commenter	Comment	Response
<u>(L)The Presiding Judge of the Juvenile Court, the County Probation Department, the County Mental Health Department, and any other participants the Presiding Judge shall designate, shall develop a written protocol and program to ensure that minors who are found incompetent receive appropriate services for the remediation of competency. Remediation counselors or evaluators shall adhere to the standards in subsection (c)</u>	Judicial Officers	Who is responsible for paying for this?	Committee does not want to address cost at this time.
		Reconsider “any other participants”	Committee disagrees. Judge can decide who needs to be involved
		There will be 58 different protocols and programs with different “appropriate services”?	Yes. Committee wants to keep open options that will work in each county.
	Public Defender	Add Cal. Rules of Ct., Rule 5.645(d).	Committee agrees
	CPOC	Rural counties are very concerned about this. Specifically, about the remediation services. Currently, they do not have anything in place. They do not have the resources or qualifications for a remediation program. If they have to transport a youth to another county or house them somewhere in order to attempt remediation this would be a huge financial burden. There should be another option for rural counties. When a judge declares incompetence and the minor has a high IQ, it is struggle to place the juvenile	Committee has yet to address
	CPOC	<ul style="list-style-type: none"> • Who pays? • Referred to remediation, but not clear if there is an expectation that this is an actual program or just an 	Committee has yet to address

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		<p>umbrella term</p> <ul style="list-style-type: none">• Are remediation counselors expected to be county staff?• Is it expected that they would be from county mental health or probation? <p>Most probation agencies discussed the lack of resources and lack of funding for these services whether it be in the hall or community. No suitable places for the minors to be refereed. Probation becomes defacto housing and treatment for youth with significant mental health needs.</p>	
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Proposed Legislative language	Commenter	Comment	Response
<u>(m) Upon finding of incompetency the court will refer the minor to the county's Remediation program, as described in (k). The program shall provide services in the least restrictive environment consistent with public safety. Priority shall be given to minors in custody. The Court shall review restoration services at least every 30 calendar days for minors in custody and every 45 calendar days for minors out of custody. And the minor shall be returned to court at the earliest possible time with recommendation of remediation or non-remediation.</u>	Judicial Officers	This section seems to contemplate that the remediation counselors would make a recommendation as to whether minor has attained competency. This opinion should be made by an independent expert, not by the remediation trainer.	Committee agrees that evaluation from expert can be sought. Look at (n).
		I would suggest 45 days at a minimum.	Committee agrees, but concerned about youth in custody. So, changed language to 30 days if minor is in custody and 45 days if out of custody.
		Not clear exactly who makes this recommendation?	Committee decides that it should be up to each remediation program to make recommendation.
	Public Defender	In adult statute, an independent recommendation is made by Conrep or mental health about whether remediation should be in custody or out of custody. Initial report should have something about the likely hood of remediation, particularly since we are dealing with developmental issues	Committee did not address this.
		30 to 45 days from what?	Committee leaves the language as is. It is 30 to 45 days from when the court orders the minor participate in remediation
	District Attorney	Restoration review time frames are very short. Should be 60 and 90 (San Diego)	Committee keeps time frame the same. Believes that 60 and 90 days are too long.
	Probation	Can Remediation counselors determine the likely hood that the minor can attain competency within a reasonable amount of time?	Committee has yet to address

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		Concern about remediation counselors and not psychologist or psychiatrist making an assessment.	
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DRAFT

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Proposed Legislative language	Commenter	Comment	Response
<p><u>(n) Upon presentation of the recommendation, the court shall hold an evidentiary hearing on whether the child is remediated or is able to be remediated, unless a stipulation or submission by the parties is made to the court. If the recommendation is that the minor’s competency has been remediated, the burden is on the minor to show, by a preponderance of evidence, incompetence. If the recommendation is that the minor is not able to be remediated, the people must demonstrate by a preponderance of evidence that the minor is remediable. The provisions of subsection (f) shall apply at this stage of the proceedings.</u></p> <p><u>(1) If the court finds the minor has been remediated, the court shall reinstate the delinquency proceedings.</u></p> <p><u>(2) If the court finds the minor is not yet remediated, but is able to be remediated, the court shall order the minor returned to the remediation program.</u></p>	<p>Judicial Officers</p>	<p>Is this a “full evidentiary” hearing or just a “hearing”?</p>	<p>Committee agrees to change language to reflect original determination of competence.</p> <p>Committee also reworks language to clearly delineate the options.</p> <p>Committee changes language in (3) to reflect that is voluntary.</p>
	<p>Forensic Evaluator</p>	<p>Define remediation counselors and reword to say remediation counselors AND evaluators</p>	<p>Committee agrees to have a rule of court addressing implementation issues.</p>
	<p>Public Defender</p>	<p>This format assumes that the defense attorney is always the party who expresses the doubt and bore the burden of proof. The burden to show that a minor is still incompetent should be on the party who expressed the doubt and litigated the competency hearing.</p> <p>There is not such allowance in the adult</p>	<p>Committee disagrees. Current law is that it is the minor’s burden. Juvenile proceedings are different from adult proceedings, Committee keeps language as is.</p>

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<p><u>(3) If it appears that the minor will not achieve remediation, the court may set a hearing to determine what services are necessary and available after dismissal of the petition. All persons and agencies with information about the minor or about service which may be available to the minor shall be invited to this meeting. Such persons and agencies may include, but not be limited to, the minor and his or her attorney; parents, guardians, or relative caregiver; mental health treatment professionals; public guardian educational rights holder; education provider and social service agency. If appropriate, the Court shall refer the minor for evaluation pursuant to Welfare and Institutions Code §6550, et seq. or §5300, et seq.</u></p>	<p>District Attorney</p> <hr/> <p>Judge Gill</p>	<p>statute. I think there should not be such an opportunity to challenge and should just mirror adult requirement.</p> <hr/> <p>(n)(3)- Court should not dismiss the petition to retain jurisdiction to deal with dangerous minors - For the meeting: specifically include District Attorney and Conservator -- follow WIC 4500 (San Diego)</p> <hr/> <p>Proposed rewrite to clarify this subsection</p>	<p>Court disagrees. Dangerousness is a separate subject.</p> <hr/> <p>Committee has yet to address this rewrite This change is in the current draft circulating</p>
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Juvenile Justice GPS (Geography, Policy, Practice, Statistics) is a project to develop an online repository providing state policy makers and system stakeholders with a clear understanding of the juvenile justice landscape in the states. The site layers the most relevant national and state level statistics with information on state laws and practice and charts juvenile justice system change. In a landscape that is highly decentralized and ever-shifting, JJGPS provides an invaluable resource for those wanting to improve the juvenile justice system. We hope that the information will be used as a platform for inspiring change and finding solutions that have been applied in other places.

Juvenile Competency Procedures

Currently, all jurisdictions but the following six have either statutes, court rules or case law outlining the procedures under which juvenile competency to stand trial is decided: Alaska, Hawaii, Mississippi, Oklahoma, Oregon, and Rhode Island.

In fact, Oklahoma has specific case law from the state Court of Criminal Appeals explaining that since juvenile proceedings are not criminal but rehabilitative, it was the intent of the legislature not to have the competency statutes apply to juveniles. (*G.J.I. v. State*, 778 P.2d 485 (1989))

The Dusky Standard

Typically, both juvenile and adult competency statutes are based on the *Dusky* standard, taken from the 1960 United States Supreme Court case. Under that case, “the test must be whether he has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him.” (*Dusky v. United States*, 362 U.S. 402, 80 S.Ct. 788, 4 L.Ed.2d 824 (1960))

However, the Wyoming Supreme Court warns that these standards should be applied in the light of juvenile norms. (*In the Interest of SWM v. State*, 299 P.3d 673 (2013))

As an example, Georgia’s new definition of juvenile incompetency, effective in 2014, reads: ‘Incompetent to proceed’ means lacking sufficient present ability to understand the nature and object of the proceedings, to comprehend his or her own situation in relation to the proceedings, and to assist his or her attorney in the preparation and presentation of his or her case in all adjudication, disposition, or transfer hearings.

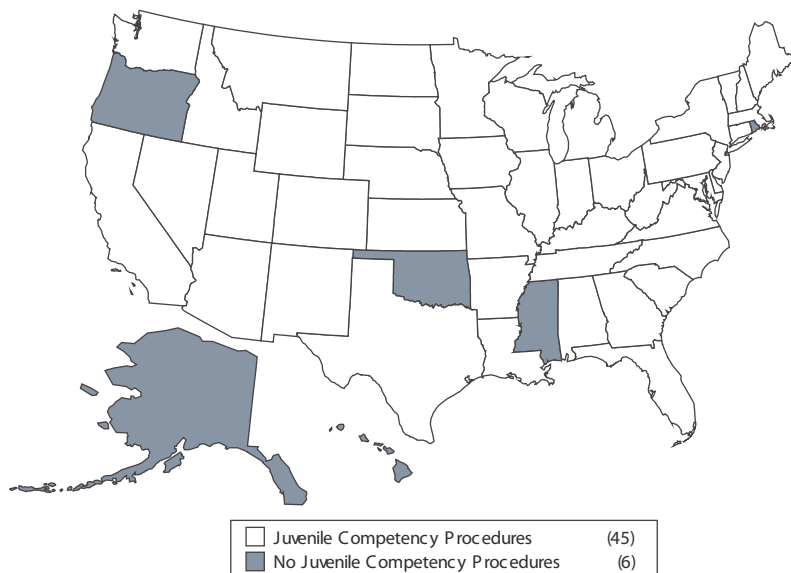
Under the Arizona version of the *Dusky* standard, a juvenile is incompetent if he or she does not have sufficient present ability to consult with the juvenile’s lawyer with a reasonable degree of rational understanding or who does not have a rational and factual

understanding of the proceedings against the juvenile.

In Kentucky, incompetency to stand trial under the *Dusky* standard means, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one’s own defense.

The test for determining an accused juvenile’s competency to stand trial in North Dakota is whether the accused has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him.

States with Juvenile Competency Procedures



Factors Used in Determining the Dusky Standard

States use a variety of factors to reach the determination as to whether or not a juvenile meets the *Dusky* Standard.

For example, in Arkansas, in reaching an opinion about the juvenile's fitness to proceed, the examiner must consider and make written findings regarding an opinion on whether the juvenile's capabilities entail: an ability to understand and appreciate the charges and their seriousness; an ability to understand and realistically appraise the likely outcomes; a reliable episodic memory so that he or she can accurately and reliably relate a sequence of events; an ability to extend thinking into the future; an ability to consider the impact of his or her actions on others; verbal articulation abilities or the ability to express himself or herself in a reasonable and coherent manner; and logical decision-making abilities, particularly multi-factored problem solving or the ability to take several factors into consideration in making a decision.

In Idaho, the examiner or evaluation committee can employ any method of examination that is accepted by

the examiner's profession for the examination of juveniles alleged not to be competent, provided that such examination must, at a minimum, include formal assessments of the juvenile in each of the following domains: cognitive functioning; adaptive functioning; clinical functioning; comprehension of relevant forensic issues; and genuineness of effort.

To assist the court's determination of competency in Maine, the State Forensic Service examiner's report must address the juvenile's capacity and ability to: appreciate the range of possible dispositions that can be imposed in the proceedings against the juvenile and recognize how possible dispositions imposed in the proceedings will affect the juvenile; appreciate the impact of the juvenile's actions on others; disclose to counsel facts pertinent to the proceedings at issue including the ability to articulate thoughts; the ability to articulate emotions; and the ability to accurately and reliably relate a sequence of events. The juvenile being tested must also: display logical and autonomous decision making; display appropriate courtroom behavior; testify relevantly at proceedings; and

demonstrate any other capacity or ability either separately sought by the juvenile court or determined by the examiner to be relevant to the juvenile court's determination.

North Dakota case law identifies four, nonexclusive factors relevant to determining whether the evidence before the trial court should reasonably have raised a doubt as to the juvenile's competency: (1) the juvenile's irrational behavior; (2) the juvenile's demeanor before the trial court; (3) any prior medical opinions on the competency of the juvenile to stand trial; and (4) any questioning of the juvenile's competency by counsel before the trial court.

Juvenile's Age as a Factor in Determining the Dusky Standard

Some states use the juvenile's age as a factor in deciding his or her competency. For example, the juvenile's age or immaturity can be used as one basis for determining the juvenile's competency in: Georgia, Idaho, Maine, Maryland, Vermont.

Juvenile Competency								
State	Legal Authority	Factors	Definitions	Dusky Standard	Age as Factor	Procedures	Recent Law	Transfer Procedures
Alabama	■	■		■				
Alaska								
Arizona	■		■	■	■	■		
Arkansas	■	■		■	■			
California	■	■		■		■		
Colorado	■		■	■		■		
Connecticut	■			■	■	■	■	■
Delaware	■	■	■	■	■	■	■	
Dist. of Columbia	■		■	■		■		■
Florida	■	■		■		■		
Georgia	■	■	■	■	■	■	■	■
Hawaii								
Idaho	■	■		■	■	■	■	
Illinois	■			■				
Indiana	■	■				■		
Iowa	■			■		■		
Kansas	■			■		■		
Kentucky	■			■				■
Louisiana	■	■	■	■		■		■
Maine	■	■		■	■	■	■	■
Maryland	■	■	■	■	■	■		■
Massachusetts	■			■				
Michigan	■	■		■	■	■	■	
Minnesota	■	■		■		■		
Mississippi								

Sometimes this is referred to as “Chronological immaturity,” meaning a condition based on a juvenile’s chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or mental retardation.

On the other hand, age alone does NOT render a person incompetent in: Arizona, Connecticut, Delaware, Montana, and Virginia.

In Michigan, a juvenile 10 years of age or older is presumed competent to proceed unless the issue of competency is raised by a party. A juvenile younger than age 10 is presumed incompetent to proceed.

In Arkansas, if a juvenile is younger than 13 at the time of the alleged offense and is charged with capital murder or murder in the first degree there is a presumption that the juvenile is unfit to proceed and he or she lacked capacity to possess the necessary mental state required for the offense charged; to conform his or her conduct to the requirements of law; and to appreciate the criminality of his or her conduct. The prosecution must overcome these presumptions by a preponderance of the evidence.

In Ohio, if the juvenile who is the subject of the proceeding is fourteen years of age or older and if the juvenile is not otherwise found to be mentally ill, intellectually disabled, or developmentally disabled, it is rebuttably presumed that the juvenile does not have a lack of mental capacity. This presumption applies only in making a determination as to whether the juvenile has a lack of mental capacity.

Juvenile Competency Statutes Applied to Transfer Statutes

A few jurisdictions specifically mention the applicability of their juvenile competency statute to their statute transfer provisions regarding the transferring a juvenile case to criminal court. The juvenile competency statute specifically applies to the transfer statute in: the District of Columbia, Georgia, Kentucky, Louisiana, and Maryland.

In Nevada, the juvenile court cannot certify a juvenile for criminal proceedings as an adult if the juvenile court specifically finds by clear and convincing evidence that the juvenile is developmentally or mentally

incompetent to understand the situation and the proceedings of the court or to aid the juvenile’s attorney in those proceedings.

Under Texas law, a juvenile alleged by petition or found to have engaged in delinquent conduct who as a result of mental illness or mental retardation lacks capacity to understand the proceedings in juvenile court or to assist in the juvenile’s own defense is unfit to proceed and must not be subjected to discretionary transfer to criminal court as long as such incapacity endures.

In Virginia, with certain statutory exceptions, if a juvenile 14 years of age or older at the time of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court must, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and can retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate Circuit Court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate Circuit

Juvenile Competency								
State	Legal Authority	Factors	Definitions	Dusky Standard	Age as Factor	Procedures	Recent Law	Transfer Procedures
Missouri	■							
Montana	■			■	■			
Nebraska	■							
Nevada	■			■				■
New Hampshire	■							
New Jersey	■	■		■		■		
New Mexico	■					■		
New York	■			■		■		
North Carolina	■			■		■		
North Dakota	■	■		■		■		
Ohio	■	■		■	■	■	■	
Oklahoma								
Oregon								
Pennsylvania	■	■		■		■		
Rhode Island								
South Carolina	■			■				
South Dakota	■	■		■		■	■	■
Tennessee	■					■		
Texas	■			■		■		■
Utah	■	■		■		■	■	
Vermont	■	■		■	■	■		
Virginia	■			■	■	■		■
Washington	■		■	■		■		
West Virginia	■					■	■	
Wisconsin	■		■			■		
Wyoming	■	■		■		■		

Court must be subject to the following conditions: the juvenile is competent to stand trial, the juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence.

Not-with-standing a finding by the juvenile court in Maine that the juvenile is competent to proceed in a juvenile proceeding, if the juvenile is subsequently bound over for prosecution in the Superior Court or a court with a unified criminal docket, the issue of the juvenile's competency can be revisited.

Likewise in South Dakota, not-with-standing a finding by the court that the juvenile is competent to proceed in a juvenile proceeding, if the juvenile is subsequently transferred to criminal court the issue of the juvenile's competency can be revisited.

In Connecticut, the juvenile competency statute does not apply to a transfer hearing.

Recently Enacted Juvenile Competency Statutes

Recently, several states have enacted new juvenile competency statutes: West Virginia in 2010; Idaho, Maine, and Ohio in 2011; Connecticut, Delaware, and Utah in 2012; Michigan and South Dakota in 2013. New Georgia law will be taking effect in 2014.

Juvenile Competency Definitions

Some state statutes provide valuable definitions. Delaware defines the term *Competency Evaluator* to mean an expert qualified by training and experience to conduct juvenile competency evaluations, familiar with juvenile competency standards, and familiar with juvenile treatment programs and services.

In Louisiana, *Insanity* means a mental disease or mental illness which renders the juvenile incapable of distinguishing between right and wrong with reference to the conduct in question, as a result of which the juvenile is exempt from criminal responsibility.

A *Competency Hearing* in Maryland means a hearing to determine whether a juvenile alleged to be delinquent is mentally competent to participate in a waiver hearing, an adjudicatory hearing, a disposition hearing, or a violation of probation hearing.

Recent State Case Law

The issue in a 2010 Louisiana appellate court case was whether the juvenile court is divested of jurisdiction when a juvenile is indicted in criminal court at a time when competency proceedings are pending in the juvenile court.

In this case, after the indictment was filed and before the juvenile court held a hearing on the competency issue, the state objected to the juvenile court's exercise of jurisdiction and moved to dismiss the proceedings. The juvenile court denied the state's motion, and said a competency hearing would be conducted to determine the juvenile's capacity to proceed.

The Louisiana appellate court held that in those cases where the competency of the juvenile is raised in juvenile court before the state secures an indictment, the state has no authority to get an indictment until the juvenile has been found competent. If the juvenile is found competent in the juvenile court, trial in the criminal court is not prevented. Only those juveniles who are found incompetent would be shielded from criminal prosecution. (*State in the Interest of T.C.*, 35 So.3d 1088 (2010))

In 2013, the Supreme Court of Colorado held that the differing treatment of indigent juveniles and indigent adult defendants with regard to the entitlement to a second competency evaluation at state expense did not constitute an equal protection violation.

The Colorado high court went on to explain that the divergent purposes of the adult and juvenile justice systems can logically demand divergent procedures and procedural protections. Consequently, the competency procedures applicable in juvenile justice proceedings can validly differ in important ways from those used in the criminal context.

The state high court found that no

Equal Protection violation occurred here. The General Assembly's establishment of a comprehensive system for the rehabilitation of juvenile offenders—which seeks to provide care and guidance, in contrast to the punitive focus of the criminal justice system—provides a rational basis for denial of an initial and second competency evaluation as a right in the juvenile justice system, even though a criminal defendant would be entitled to both.

In order to protect an alleged juvenile offender's welfare in a juvenile justice proceeding, the state has a very different role than it does in a criminal prosecution: that of *parens patriae*.

In fact, the juvenile competency provisions—unlike the adult provisions—explicitly require the court, prosecution, probation officer, guardian ad litem, defense counsel, and parent or legal guardian to actively safeguard an alleged juvenile offender's right not to be tried or sentenced while incompetent to proceed.

The Colorado Supreme Court concludes that the General Assembly could reasonably and rationally view this arrangement as more conducive to achieving the less adversarial, more intimate, informal and protective proceeding the United States Supreme Court identified as the aspirational goal of the juvenile justice system. (*In the Interest of W.P.*, 295 P.3d 514 (2013))

Linda A. Szymanski, Senior Attorney with the National Center for Juvenile Justice prepared this document with support from the John D. and Catherine T. MacArthur Foundation. Points of view or opinions expressed are those of the author and not necessarily those of the Foundation.

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The National Center for Juvenile Justice is the research division of the National Council of Juvenile and Family Court Judges.

Suggested Citation: Szymanski, Linda A. 2013. Juvenile Competency Procedures. *JJGPS StateScan*. Pittsburgh, PA: National Center for Juvenile Justice.

1 **Rule 5.570. Request to change court order (petition for modification)**
2

3 (a)– (c) ***
4

5 **(d) Denial of hearing**
6

7 The court may deny the petition ex parte if:
8

- 9 (1) The petition filed under section 388(a) or section 778(a) fails to state a
10 change of circumstance or new evidence that may require a change of order
11 or termination of jurisdiction or fails to show that the requested modification
12 would promote the best interest of the child, nonminor, or nonminor
13 dependent.
14
- 15 (2) The petition filed under section 388(b) or section 778(b) fails to demonstrate
16 that the requested modification would promote the best interest of the child;
17 or
18
- 19 (3) The petition filed under section 388(c) fails to state facts showing that the
20 parent has failed to visit the child or that the parent has failed to participate
21 regularly and make substantive progress in a court-ordered treatment plan or
22 fails to show that the requested termination of services would promote the
23 best interest of the child.
24

25
26 **(e) Grounds for grant of petition (§§ 388, 778)**
27

- 28 (1) If the petition filed under section 388(a) or section 778(a) states a change of
29 circumstance or new evidence and it appears that the best interest of the
30 child, nonminor, or nonminor dependent may be promoted by the proposed
31 change of order or termination of jurisdiction, the court may grant the petition
32 after following the procedures in (f), (g), and (h), or (i).
33
- 34 (2) If the petition is filed under section 388(b) and it appears that the best interest
35 of the child, nonminor, or nonminor dependent may be promoted by the
36 proposed recognition of a sibling relationship ~~and~~ or other requested orders,
37 the court may grant the petition after following the procedures in (f), (g), and
38 (h).
39
- 40 (3) If the petition is filed under section 388(b) and the request is for visitation
41 with a sibling who is not a dependent of the court, and it appears that sibling
42 visitation is not contrary to the safety and well-being of any of the siblings.

1 the court may grant the request after following the procedures in (f), (g), and
2 (h).

3
4 (4) If the petition is filed under section 778(b) and it appears that visitation is not
5 contrary to the safety and well being of the ward or any of the siblings, the
6 court may grant the request after following the procedures in (f), (g), and (i).

7
8 ~~(3)~~ (4) ***

9
10 ~~(4)~~ (5) ***

11
12 ~~(5)~~ (6) If the petition filed under section 388(a) is filed before an order
13 terminating parental rights and is seeking to modify an order that
14 reunification services ~~were not needed~~ need not be provided under section
15 361.5(b)(4), (5), or (6) or to modify any orders related to custody or visitation
16 of the child for whom reunification services were not ordered under section
17 361.5(b)(4), (5), or (6), the court may modify the orders only if the court
18 finds by clear and convincing evidence that the proposed change is in the best
19 interests of the child. The court may grant the petition after following the
20 procedures in (f), (g), and (h).

21
22 **(f) Hearing on petition**

23
24 If all parties stipulate to the requested modification, the court may order
25 modification without a hearing. If there is no such stipulation and the petition has
26 not been denied ex parte under section (d), the court must order that a hearing on
27 the petition for modification be held within 30 calendar days after the petition is
28 filed.

29
30
31 **(g) *****

32
33
34 **(h) Conduct of hearing (§ 388)**

35
36 (1) The petitioner requesting the modification under section 388 has the burden
37 of proof.

38
39 (A) If the request is for the removal of the child from the child's home, the
40 petitioner must show by clear and convincing evidence that the grounds
41 for removal in section 361(c) exist.

1 (B) If the request is for removal to a more restrictive level of placement, the
2 petitioner must show by clear and convincing evidence that the change
3 is necessary to protect the physical or emotional well being of the child.
4

5 ~~(A)~~(C)If the request is for termination of court-ordered reunification services,
6 the petitioner must show by clear and convincing evidence that one of
7 the conditions in section 388(c)(1)(A) or (B) exists and must show by a
8 preponderance of the evidence that reasonable services have been
9 offered or provided.

10
11 ~~(B)~~(D)If the request is to modify an order that reunification services were not
12 needed under section 361.5(b)(4), (5), or (6) or to modify any orders
13 related to custody or visitation of the child for whom reunification
14 services were not ordered under section 361.5(b)(4), (5), or (6), the
15 petitioner must show by clear and convincing evidence that the
16 proposed change is in the best interests of the child.

17
18 ~~(C)~~(E)All other requests require a preponderance of the evidence to show
19 that the child’s welfare requires such a modification.
20

21 (2) If the request is for visitation with a sibling who is not a dependent of the
22 court, the court may grant the request unless it is determined by the court that
23 sibling visitation is contrary to the safety and well-being of any of the
24 siblings.
25

26 ~~(2)~~ (3)The hearing must be conducted as a dispositional hearing under rules 5.690
27 and 5.695 if:

28
29 (A) The request is for termination of court-ordered reunification services;
30 or

31
32 (B) There is a due process right to confront and cross-examine witnesses.
33

34 Otherwise, proof may be by declaration and other documentary evidence, or by
35 testimony, or both, at the discretion of the court.
36

37 (i) **Conduct of hearing (§ 778)**
38

39 (1) The petitioner requesting the modification under section 778(a) has the burden
40 of proving by a preponderance of the evidence that the ward’s welfare requires the
41 modification. Proof may be by declaration and other documentary evidence, or by
42 testimony, or both, at the discretion of the court.
43

1 (2) If the request is for visitation under section 778(b) the court may grant the
2 request unless it is determined by the court that sibling visitation is contrary
3 to the safety and well-being of any of the siblings.
4
5

6 (j) **Petitions for juvenile court to resume jurisdiction over nonminors (§§ 388(e),**
7 **388.1)**

8
9 A petition filed by or on behalf of a nonminor requesting that the court resume
10 jurisdiction over the nonminor as a nonminor dependent is not subject to this rule.
11 Petitions filed under ~~subdivision (e) of section 388(e) or section 388.1~~ are subject
12 to rule 5.906.
13

14 **Rule 5.708. General review hearing requirements**

15
16 (a) – (b) ***

17
18 (c) **Reports (§§ 366.05, 366.1, 366.21, 366.22, 366.25)**

19
20 Before the hearing, the social worker must investigate and file a report describing
21 the services offered to the family, progress made, and, if relevant, the prognosis for
22 return of the child to the parent or legal guardian.
23

24 (1) The report must include:

25
26 (A) Recommendations for court orders and the reasons for those
27 recommendations;

28
29 (B) A description of the efforts made to achieve legal permanence for the
30 child if reunification efforts fail; ~~and~~

31
32 (C) A factual discussion of each item listed in sections 366.1 and
33 366.21(c); and

34
35 (D) A factual discussion of the information required by section 16002(b).
36

37 (2) – (3) ***

38
39 (d) – (e) ***

40
41 (f) **Educational and developmental-services needs (§§ 361, 366, 366.1, 366.3)**

42
43 The court must consider the educational and developmental-services needs of each
44 child and nonminor or nonminor dependent youth, including whether it is necessary

1 to limit the rights of the parent or legal guardian to make educational or
2 developmental-services decisions for the child ~~or youth~~. If the court limits those
3 rights or, in the case of a nonminor or nonminor dependent ~~youth~~ who has chosen
4 not to make educational or developmental-services decisions for him- or herself or
5 has been deemed incompetent, finds that appointment would be in the best interests
6 of the ~~youth~~ nonminor or nonminor dependent, the court must appoint a responsible
7 adult as the educational rights holder as defined in rule 5.502. Any limitation on the
8 rights of a parent or guardian to make educational or developmental-services
9 decisions for the child ~~or youth~~ must be specified in the court order. The court must
10 follow the procedures in rules 5.649–5.651.

11
12 **(g) Case plan (§§ 16001.9, 16501.1)**

13
14 The court must consider the case plan submitted for the hearing and must
15 determine:

16
17 (1) Whether the child ~~or youth~~ was actively involved, as age- and
18 developmentally appropriate, in the development of his or her own case plan
19 and plan for permanent placement. If the court finds that the child ~~or youth~~
20 was not appropriately involved, the court must order the agency to actively
21 involve the child ~~or youth~~ in the development of his or her own case plan and
22 plan for permanent placement, unless the court finds that the child is unable,
23 unavailable, or unwilling to participate.

24
25 (2) – (3)

26
27 (4) For a child ~~or youth~~ 12 years of age or older in a permanent placement,
28 whether the child was given the opportunity to review the case plan, sign it,
29 and receive a copy. If the court finds that the child ~~or youth~~ was not given
30 this opportunity, the court must order the agency to give the child the
31 opportunity to review the case plan, sign it, and receive a copy.

32
33 **(h) – (i)**

34
35 **(j) Sibling findings; additional findings (§ 366)**

36
37 (1) The court must determine whether the child has other siblings under the
38 court's jurisdiction. If so, the court must make the additional determinations
39 required by section 366(a)(1)(D); and

40
41 (2) The court must enter any additional findings as required by section 366 and
42 section 16002.

1 (k) – (m) ***

2
3 (n) **Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

4
5 The court must make the following orders and determinations when setting a
6 hearing under section 366.26:

7
8 (1) The court must terminate reunification services to the parent or legal guardian
9 and:

10
11 (A) Order that the social worker provide a copy of the child’s birth
12 certificate to the caregiver as consistent with sections 16010.4(e)(5) and
13 16010.5(b)–(c); and

14
15 (B) Order that the social worker provide a child ~~or youth~~ 16 years of age or
16 older with a copy of his or her birth certificate unless the court finds
17 that provision of the birth certificate would be inappropriate.

18
19 (2) – (6) ***

20
21 (o) ***

22
23
24 **Rule 5.810. Reviews, hearings, and permanency planning**

25
26 (a) **Six-month status review hearings (§§ 727.2, 11404.1)**

27
28 For any ward removed from the custody of his or her parent or guardian under
29 section 726 and placed in a home under section 727, the court must conduct a status
30 review hearing no less frequently than once every six months from the date the
31 ward entered foster care. The court may consider the hearing at which the initial
32 order for placement is made as the first status review hearing.

33
34 (1) – (2) ***

35
36 (3) *Findings and orders (§ 727.2(e))*

37
38 The court must consider the safety of the ward and make findings and orders
39 that determine the following:

40
41 (A) – (E) ***

- 1 (F) In the case of a child ~~or youth~~ who is 16 years of age or older, the
2 services needed to assist the child ~~or youth~~ in making the transition
3 from foster care to independent living;
4
- 5 (G) Whether the child ~~or youth~~ was actively involved, as age- and
6 developmentally appropriate, in the development of his or her own case
7 plan and plan for permanent placement. If the court finds that the child
8 ~~or youth~~ was not appropriately involved, the court must order the
9 probation department to actively involve the child ~~or youth~~ in the
10 development of his or her own case plan and plan for permanent
11 placement, unless the court finds that the child ~~or youth~~ is unable,
12 unavailable, or unwilling to participate; ~~and~~
13
- 14 (H) Whether each parent was actively involved in the development of the
15 case plan and plan for permanent placement. If the court finds that any
16 parent was not actively involved, the court must order the probation
17 department to actively involve that parent in the development of the
18 case plan and plan for permanent placement, unless the court finds that
19 the parent is unable, unavailable, or unwilling to participate; and
20
- 21 (I) If sibling interaction has been suspended and will continue to be
22 suspended, that sibling interaction is contrary to the safety or well-
23 being of either child.
24

25
26 (4) ***

27
28
29 **(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**
30

31 A permanency planning hearing for any ward who has been removed from the
32 custody of a parent or guardian and not returned at a previous review hearing must
33 be held within 12 months of the date the ward entered foster care as defined in
34 section 727.4(d)(4). ~~and periodically thereafter, but no less frequently than once~~
35 ~~every 12 months while the ward remains in placement.~~ However, when no
36 reunification services are offered to the parents or guardians under section 727.2(b),
37 the first permanency planning hearing must occur within 30 days of disposition.
38

39 (1) ***

40
41 (2) *Findings and orders (§§ 727.2(e), 727.3(a))*
42

1 At each permanency planning hearing, the court must consider the safety of
2 the ward and make findings and orders regarding the following:

3
4 (A)– (C) ***

5
6 (D) The permanent plan for the child ~~or youth~~, as described in (3);

7
8 (E) Whether the child ~~or youth~~ was actively involved, as age- and
9 developmentally appropriate, in the development of his or her own case
10 plan and plan for permanent placement. If the court finds that the child
11 ~~or youth~~ was not appropriately involved, the court must order the
12 probation officer to actively involve the child ~~or youth~~ in the
13 development of his or her own case plan and plan for permanent
14 placement, unless the court finds that the child ~~or youth~~ is unable,
15 unavailable, or unwilling to participate; and

16
17 (F) Whether each parent was actively involved in the development of the
18 case plan and plan for permanent placement. If the court finds that any
19 parent was not actively involved, the court must order the probation
20 department to actively involve that parent in the development of the
21 case plan and plan for permanent placement, unless the court finds that
22 the parent is unable, unavailable, or unwilling to participate; and

23
24 (G) If sibling interaction has been suspended and will continue to be
25 suspended, that sibling interaction is contrary to the safety or well-
26 being of either child.

27
28 (3) *Selection of a permanent plan (§ 727.3(b))*

29
30 At the first permanency planning hearing, the court must select a permanent
31 plan. At subsequent permanency planning hearings which can be held under
32 section 727.2(g), the court must either make a finding that the current
33 permanent plan is appropriate or select a different permanent plan, including
34 returning the child home, if appropriate. The court must choose from one of
35 the following permanent plans, which are, in order of priority:

36
37 (A) ***

38
39 (B) A permanent plan of return of the child to the physical custody of the
40 parent or guardian, after 6 additional months of reunification services.
41 The court may not order this plan unless the court finds that there is a
42 substantial probability that the child will be able to return home within

1 18 months of the date of initial removal or that reasonable services
2 have not been provided to the parent or guardian,

3
4 (C)– (F) ***

5
6 (4) ***

7
8 **(c) Postpermanency status review hearings (§ 727.2)**

9
10 A postpermanency status review hearing must be conducted for wards in placement
11 no less frequently than once every six months.

12
13 (1) *Consideration of reports (§ 727.2(d))*

14
15 The court must review and consider the social study report and updated case
16 plan submitted for this hearing by the probation officer and the report
17 submitted by any CASA volunteer, and any other reports filed with the court
18 under section 727.2(d).

19
20 (2) *Findings and orders (§ 727.2(g))*

21
22 At each postpermanency status review hearing, the court must consider the
23 safety of the ward and make findings and orders regarding the following:

24
25 (A) Whether the current permanent plan continues to be appropriate. If not,
26 the court must select a different permanent plan, including returning the
27 child home, if appropriate. ~~The court must not order the permanent~~
28 ~~plan of returning home after 6 more months of reunification services, as~~
29 ~~described in (b)(3)(B), unless it has been 18 months or less since the~~
30 ~~date the child was removed from home;~~

31
32 (B) The continuing necessity for and appropriateness of the placement;

33
34 (C) The extent of the probation department's compliance with the case plan
35 in making reasonable efforts to complete whatever steps are necessary
36 to finalize the permanent plan for the child; ~~and~~

37
38 (D) Whether the child ~~or youth~~ was actively involved, as age- and
39 developmentally appropriate, in the development of his or her own case
40 plan and plan for permanent placement. If the court finds that the child
41 ~~or youth~~ was not appropriately involved, the court must order the
42 probation department to actively involve the child ~~or youth~~ in the
43 development of his or her own case plan and plan for permanent

1 placement, unless the court finds that the child ~~or youth~~ is unable,
2 unavailable, or unwilling to participate; and

3
4 (E) If sibling interaction has been suspended and will continue to be
5 suspended, that sibling interaction is contrary to the safety or well-
6 being of either child.

7
8
9 **(d) Notice of hearings; service; contents (§ 727.4)**

10
11 No earlier than 30 nor later than 15 calendar days before each hearing date, the
12 probation officer must serve written notice on all persons entitled to notice under
13 section 727.4, as well as the current caregiver, any CASA volunteer or educational
14 rights holder, and all counsel of record. A *Notice of Hearing—Juvenile*
15 *Delinquency Proceeding* (form JV-625) must be used.

16
17 **(e) Report (§§ 706.5, 706.6, 727.2(c), 727.3(a)(1), 727.4(b), 16002)**

18
19 Before each hearing described above, the probation officer must investigate and
20 prepare a social study report that must include an updated case plan and all of the
21 information required in sections 706.5, 706.6, 727.2, ~~and~~ 727.3 and 16002.

- 22
23 (1) The report must contain recommendations for court findings and orders and
24 must document the evidentiary basis for those recommendations.
25
26 (2) At least 10 calendar days before each hearing, the ~~petitioner~~ probation officer
27 must file the report and provide copies of the report to the ward, the parent or
28 guardian, all attorneys of record, and any CASA volunteer.

29
30 **(f) ~~Hearing by administrative panel (§§ 727.2(h), 727.4(d)(7))~~**

31
32 ~~The status review hearings described in (a) and (c) may be conducted by an~~
33 ~~administrative review panel, provided:~~

- 34
35 (1) ~~The ward, parent or guardian, and all those entitled to notice under section~~
36 ~~727.4 may attend;~~
37
38 (2) ~~Proper notice is provided;~~
39
40 (3) ~~The panel has been appointed by the presiding judge of the juvenile court and~~
41 ~~includes at least one person who is not responsible for the case management~~
42 ~~of, or delivery of service to, the ward or the parent or guardian; and~~
43

1
2
3
4

~~(4) The panel makes findings as required by (a)(3) or (c)(2) above and submits them to the juvenile court for approval and inclusion in the court record.~~



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
February 23, 2015	Please review
To	Deadline
The Family and Juvenile Law Advisory Committee	February 26, 2015
From	Contact
Kerry Doyle	Kerry Doyle 415-865-8791 phone 415-865-7217 fax kerry.doyle@jud.ca.gov
Subject	
RUPRO. Juvenile Law: Sibling Visitation	

Executive Summary and Origin

Staff recommends that the Family and Juvenile Law Advisory Committee circulate for public comment a proposal amending three rules and revising three forms to conform to recent statutory changes giving dependency courts the authority to order visitation between dependent and non-dependent siblings in specified circumstances, creating new requirements related to sibling visitation, such as requiring more detailed information in social worker reports and probation officers' case plans, and requiring courts to make a renewed finding when renewing any suspension of sibling interaction. The recent statutory changes also made both the current and new sibling placement and visitation requirements apply to children under the jurisdiction of the delinquency court.

Background

In October 2008, Congress passed, and President Bush signed, the Fostering Connections to Success and Increasing Adoptions Act (the Act) to promote permanent families for children and youth in foster care by providing greater assistance to relative caregivers and improving incentives for adoption. Among other things, the Act requires states to use "reasonable efforts" to

place siblings together, unless such placement is contrary to their safety or well-being. If the siblings are not placed together, visitation between them must occur frequently, unless the visitation is contrary to their safety or well-being. (42 U.S.C. § 671(a).)

Prior to passage of the Act, California was one of the first states to pass legislation promoting sibling visitation for foster children as early as 1999. (*See* AB 740, Ch. 805, Stats. 1999.) Since then California has enacted several additional statutes to expand legal protections for sibling relationships.

These laws have served to promote sibling relationships when both children are in the dependency system, but at least one recent, unpublished case indicates that courts will not grant visitation in a case where one sibling is in the foster system and the other remains in the legal custody of the parent.¹ Senate Bill 1099 (Steinberg; Stats. 2014; ch. 773) sought to address this situation by giving dependency courts the authority to order visitation between dependent and non-dependent siblings in specified circumstances. Additionally, SB 1099 created new requirements related to sibling visitation, such as requiring more detailed information in social worker reports and probation officers' case plans, and requiring courts to make a renewed finding that sibling interaction is contrary to the safety or well-being of either child when renewing any suspension of sibling interaction. SB 1099 also made both the current and new sibling placement and visitation requirements apply to children under the jurisdiction of the delinquency court.

The Proposal

Rules 5.570, 5.708, and 5.810 would be amended and forms JV-183, JV-185, and JV-403 would be revised to ensure that they conform to the recently enacted provisions of Welfare and Institutions Code sections 358.1, 388, 778, and 16002, and to clarify that after the court has conducted a permanency hearing, it must conduct a postpermanency hearing no less frequently than once every six months.

Staff recommends the following specific amendments to the California Rules of Court:

- Amend rule 5.570 with the new standard for granting or denying a request for sibling visitation with a non-dependent sibling.

As introduced, the standard in section 388 for granting a request for visitation with a non-dependent sibling was "...a request for sibling visitation shall be granted unless it is shown by clear and convincing evidence that sibling visitation is contrary to the safety and well-being of any of the siblings." Staff of the Senate Judiciary Committee had

¹ *See* In re A.R. (2012) 203 Cal.App. 4th 1160

concerns that “In practice, the clear and convincing standard is a high evidentiary burden that many parties, especially self-represented parties, may have difficulty proving.”² That committee worked with the author of the bill, the California Youth Connection, to change the standard to “...a request for sibling visitation *may* be granted unless *it is determined by the court* that visitation is contrary to the safety and well-being of any of the siblings.” [Emphasis added]

Given this legislative history, staff recommends adding this new standard to rule 5.570 (h)(2) and (i)(2) but not specifying the burden of proof required.

- Further amend rule 5.570 to specify the burden of proof and standard when requesting that a child be removed from the home or to a more restrictive level of placement.

In Spring 2013, the committee recommended amending rule 5.570 to remove “statutorily incorrect uses of a section 388 petition.”³ Since the subparagraphs addressed requests to remove the child from the child’s home and requests to remove a child to a more restrictive placement, the committee decided that section 387, which addresses these requests when made by the child welfare department, governed these requests. It has since, however, been pointed out to staff that children’s counsel sometimes make these requests and if so, these requests would be governed by section 388. The committee therefore recommends that the language taken out of the rule effective January 1, 2014 be included in it again.

- Amend rule 5.708 to require that that the court make the findings required by section 16002(b).

Rule 5.708 governs the findings the court must make regarding siblings at dependency status review hearings. SB 1099 created a requirement that when there has been a suspension of sibling interaction, in order for the suspension to continue, the court must make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. Staff recommends using a cross reference to the recently amended section 16002. By referencing the statute, any future modification to section 16002 will not result in the need for changes to the rule.

- Amend rule 5.810 to require a finding, if sibling interaction has been suspended and will continue to remain suspended, that sibling interaction is contrary to the safety or well-being of either child.

² Analysis of Senate Judiciary Committee, hearing date April 22, 2014, pg.6

³ Invitation to Comment, Spring 2013

Rule 5.708 governs the findings the court must make at delinquency status review hearings. SB 1099 created a requirement that when there has been a suspension of sibling interaction, in order for the suspension to continue, the court must make a renewed finding that sibling interaction is contrary to the safety or well-being of either child. Staff recommends adding this newly required finding to the subdivisions governing each status review type: prepermanency, permanency, and postpermanency hearings.

- Further amend rules 5.708 and 5.810 to delete references to “youth.”

Frequently, but not consistently, these rules refer to “child or youth” rather than “child.” Youth is not defined in the California Rules of Court. Rule 5.502 defines child as “a person under the age of 18 years.” It further defines both nonminors and nonminor dependents. These three definitions include all children and nonminors who are subject to the court’s jurisdiction. The committee recommends using the words that are defined in the rule and deleting any references to the undefined “youth.”

- Further amend rule 5.810 to clarify that after the court has conducted a permanency hearing, it must conduct a postpermanency hearing no less frequently than once every six months and to eliminate the requirement for a permanency hearing every 12 months.

While a permanency hearing is required every 12 months under federal law,⁴ California complies with this requirement by holding postpermanency status review hearings every six months.⁵ The finding and order required by federal law to identify a permanent plan for a child are required by state law to be made at each postpermanency status review hearing, thus satisfying the federal requirement.⁶

- Further amend rule 5.810 to remove subdivision (f) regarding administrative reviews as it is duplicative of statute.
- Amend rules 5.570, 5.708, and 5.810 with new references to code sections and subsections, and further clarifying changes.
- Revise *Court Order on Form JV-180, Request to Change Court Order* (form JV-183) to include the new standard for granting a request for sibling visitation with a child who is not a dependent of the court.

⁴ 45 C.F.R. §§ 1355.20, 1356.21(b)(2)(i); 42 U.S.C. § 675(5)(C), (f)

⁵ Welf. & Inst. Code § 366.3(a), (d)

⁶ Welf. & Inst. Code § 366.3(e)(3)

- Revise *Child's Information Sheet—Request to Change Court Order* (form JV-185) to include an instruction that the child can request an order permitting visitation with a sibling who is not a dependent of the court.
- Revise *Sibling Attachment: Contact and Placement* (form JV-403) to include the new findings required by SB 1099 regarding siblings under the court's jurisdiction who are not placed together in the same home. SB 1099 amended sections 366 and 366.3 to require findings regarding whether the visits are supervised or unsupervised and, if supervised, why and what needs to be accomplished in order for the visits to be unsupervised; a description of the location and length of the visits; and any plan to increase visitation between the siblings. These findings would be added to the current item 3 and would make the one page form a two page form.

Additional Committee Discussion

In *In re G.B.* (2014) 227 Cal.App.4th 1147 the First Appellate District held, *inter alia*, that the failure to hold a hearing on modification requests did not amount to reversible error.⁷ In doing so, the appellate court implicitly approved the trial court's practice of setting a hearing for the purpose of giving the parties an opportunity to argue whether the section 388 petition stated a *prima facie* case and whether a hearing on the petition should be set. The appellate court stated that in checking the box on the form⁸ the juvenile court was not deciding that a *prima facie* case had been made but was instead scheduling the matter for the parties to argue that issue. It further stated that such a setting was not an option on the form.

Neither rule 5.570(f) nor *Court Order on Form JV-180*, Request to Change Court Order (form JV-183) contemplates nor allows for such a procedure. The choices are: grant the order when all parties stipulate to the requested modification; deny the petition *ex parte* if the petition fails to state a change of circumstance or new evidence, or fails to show that the requested modification would promote the child's best interest; or order a hearing on the petition be held within 30 days.

Is the practice of scheduling a 388 petition for the parties to argue whether the petition makes a *prima facie* showing a common enough practice that the rule of court and corresponding Judicial Council form should be amended to allow for this practice? Or does the committee want to seek public comment on this practice before determining whether the rule and form should be amended?

⁷ The published opinion can be found here: <http://www.courts.ca.gov/opinions/archive/A140107.PDF>

⁸ *Court Order on Form JV-180*, Request to Change Court Order (form JV-183) item 3 was filled in by the trial court and reads "The court orders a hearing on the form JV-180 request because the best interest of the child may be promoted by the request. The hearing will take place on (date):..."

SECTION 1.

Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1.

Each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

- (a) Whether the county welfare department or social worker has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.
- (b) What plan, if any, for return of the child to his or her parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.
- (c) Whether the best interests of the child will be served by granting reasonable visitation rights with the child to his or her grandparents, in order to maintain and strengthen the child's family relationships.
- (d) (1) Whether the child has siblings under the court's jurisdiction, and, if any siblings exist, all of the following:
 - (A) The nature of the relationship between the child and his or her siblings.
 - (B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.
 - (C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.
 - (D) If the siblings are not placed together, ~~the frequency and nature all of the visits between siblings.~~ following:
 - (i) *The frequency and nature of the visits between the siblings.*
 - (ii) *If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.*
 - (iii) *If there are visits between the siblings, a description of the location and length of the visits.*
 - (iv) *Any plan to increase visitation between the siblings.*
 - (E) The impact of the sibling relationships on the child's placement and planning for legal permanence.
- (2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interest.
- (e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the study or evaluation makes that recommendation, it shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.
- (f) Whether the child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.
- (g) Whether the parent has been advised of his or her option to participate in adoption planning, including the option to enter into a postadoption contact agreement as described in Section ~~8714.7~~ *8616.5* of the Family Code, and to voluntarily relinquish the child for adoption if an adoption agency is willing to accept the relinquishment.
- (h) The appropriateness of any relative placement pursuant to Section 361.3. However, this consideration may not be cause for continuance of the dispositional hearing.
- (i) Whether the caregiver desires, and is willing, to provide legal permanency for the child if reunification is unsuccessful.

(j) For an Indian child, in consultation with the Indian child's tribe, whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful.

(k) On and after the date that the director executes a declaration pursuant to Section 11217, whether the child has been placed in an approved relative's home under a voluntary placement agreement for a period not to exceed 180 days, the parent or guardian is not interested in additional family maintenance or family reunification services, and the relative desires and is willing to be appointed the child's legal guardian.

SEC. 1.5.

Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1.

Each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or social worker has considered either of the following:

~~(a) (1) Whether the county welfare department or social worker has considered child~~ *Child* protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(2) Whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.

(b) What plan, if any, for return of the child to his or her parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the child will be served by granting reasonable visitation rights with the child to his or her grandparents, in order to maintain and strengthen the child's family relationships.

(d) (1) Whether the child has siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, ~~the frequency and nature~~ *all* of the ~~visits between~~ *siblings* following:

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interest.

(e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the

study or evaluation makes that recommendation, it shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

(f) Whether the child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(g) Whether the parent has been advised of his or her option to participate in adoption planning, including the option to enter into a postadoption contact agreement as described in Section ~~8714.7~~ 8616.5 of the Family Code, and to voluntarily relinquish the child for adoption if an adoption agency is willing to accept the relinquishment.

(h) The appropriateness of any relative placement pursuant to Section 361.3. However, this consideration may not be cause for continuance of the dispositional hearing.

(i) Whether the caregiver desires, and is willing, to provide legal permanency for the child if reunification is unsuccessful.

(j) For an Indian child, in consultation with the Indian child's tribe, whether tribal customary adoption is an appropriate permanent plan for the child if reunification is unsuccessful.

(k) On and after the date that the director executes a declaration pursuant to Section 11217, whether the child has been placed in an approved relative's home under a voluntary placement agreement for a period not to exceed 180 days, the parent or guardian is not interested in additional family maintenance or family reunification services, and the relative desires and is willing to be appointed the child's legal guardian.

SEC. 2.

Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2.

(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, nothing in this paragraph shall be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member as defined in Section 362.7.

(4) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(5) A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(6) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(7) A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(8) A child under ~~the age of~~ six years *of age* may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) (i) When a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section ~~11467.1,~~ *11467.1 of this code*, and the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department has approved the case plan.

(ii) The short term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

(9) (A) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children only when a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, and is approved by the deputy director or director of the county child

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welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(B) The ~~short term,~~ *short term*, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(C) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of ~~subparagraph~~ *subparagraphs* (A) and (B) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(10) Nothing in this subdivision shall be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and ~~must~~ *shall* show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent's or guardian's community of residence.

(3) Nothing in this section shall be interpreted as requiring multiple disruptions of the child's placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent's or guardian's reason for the move.

(4) When it has been determined that it is necessary for a child to be placed in a county other than the child's parent's or guardian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

(i) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, ~~the~~ *or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the* nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) When an agency has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home, the agency shall ensure placement of the child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are ~~age-appropriate~~ *age appropriate* to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 2.1.

Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2.

(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. *The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.*

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, nothing in this paragraph shall be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member as defined in Section 362.7.

(4) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

(5) A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

(6) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

(7) A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(8) A child under ~~the age of~~ six years *of age* may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) (i) When a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section ~~11467.1,~~ *11467.1 of this code*, and the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department has approved the case plan.

(ii) The short term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

(9) (A) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children only when a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, and is approved by the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(B) The ~~short-term,~~ *short term*, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(C) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of ~~subparagraph~~ *subparagraphs* (A) and (B) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(10) Nothing in this subdivision shall be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

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(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and ~~must~~ shall show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent's or guardian's community of residence.

(3) Nothing in this section shall be interpreted as requiring multiple disruptions of the child's placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent's or guardian's reason for the move.

(4) When it has been determined that it is necessary for a child to be placed in a county other than the child's parent's or guardian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving

county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

(i) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, ~~the~~ *or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the* nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) When an agency has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home, the agency shall ensure placement of the child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child. A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are ~~age-appropriate~~ *age appropriate* to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 2.2.

Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2.

(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child.

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the

child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, nothing in this paragraph shall be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member as defined in Section 362.7.

~~(4)~~ *The approved home of a resource family as defined in Section 16519.5.*

~~(4)~~ (5) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

~~(5)~~ (6) A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

~~(6)~~ (7) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

~~(7)~~ (8) A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

~~(8)~~ (9) A child under ~~the age of~~ six years *of age* may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) (i) When a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section ~~11467.1,~~ *11467.1 of this code*, and the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department has approved the case plan.

(ii) The short term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or

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director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

~~(9)~~ (10) (A) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children only when a case plan indicates that placement is for purposes of providing ~~short-term-~~ *short term*, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, and is approved by the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(B) The ~~short-term-~~ *short term*, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(C) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of ~~subparagraph~~ *subparagraphs* (A) and (B) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

~~(10)~~ (11) Nothing in this subdivision shall be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and ~~must~~ *shall* show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

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(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent's or guardian's community of residence.

(3) Nothing in this section shall be interpreted as requiring multiple disruptions of the child's placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent's or guardian's reason for the move.

(4) When it has been determined that it is necessary for a child to be placed in a county other than the child's parent's or guardian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

(i) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's

jurisdiction, ~~the or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the~~ nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) ~~When an agency has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home, the agency~~ An agency shall ensure placement of ~~the a~~ child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child.

A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are ~~age-appropriate~~ age appropriate to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 2.3.

Section 361.2 of the Welfare and Institutions Code is amended to read:

361.2.

(a) When a court orders removal of a child pursuant to Section 361, the court shall first determine whether there is a parent of the child, with whom the child was not residing at the time that the events or conditions arose that brought the child within the provisions of Section 300, who desires to assume custody of the child. If that parent requests custody, the court shall place the child with the parent unless it finds that placement with that parent would be detrimental to the safety, protection, or physical or emotional well-being of the child. *The fact that the parent is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent shall not be, for that reason alone, prima facie evidence that placement with that parent would be detrimental.*

(b) If the court places the child with that parent it may do any of the following:

(1) Order that the parent become legal and physical custodian of the child. The court may also provide reasonable visitation by the noncustodial parent. The court shall then terminate its jurisdiction over the child. The custody order shall continue unless modified by a subsequent order of the superior court. The order of the juvenile court shall be filed in any domestic relation proceeding between the parents.

(2) Order that the parent assume custody subject to the jurisdiction of the juvenile court and require that a home visit be conducted within three months. In determining whether to take the action described in this paragraph, the court shall consider any concerns that have been raised by the child's current caregiver regarding the parent. After the social worker conducts the home visit and files his or her report with the court, the court may then take the action described in paragraph (1), (3), or this paragraph. However, nothing in this paragraph shall be interpreted to imply that the court is required to take the action described in this paragraph as a prerequisite to the court taking the action described in either paragraph (1) or (3).

(3) Order that the parent assume custody subject to the supervision of the juvenile court. In that case the court may order that reunification services be provided to the parent or guardian from whom the child is being removed, or the court may order that services be provided solely to the parent who is assuming physical custody in order to allow that parent to retain later custody without court supervision, or that services be provided to both parents, in which case the court shall determine, at review hearings held pursuant to Section 366, which parent, if either, shall have custody of the child.

(c) The court shall make a finding either in writing or on the record of the basis for its determination under subdivisions (a) and (b).

(d) Part 6 (commencing with Section 7950) of Division 12 of the Family Code shall apply to the placement of a child pursuant to paragraphs (1) and (2) of subdivision (e).

(e) When the court orders removal pursuant to Section 361, the court shall order the care, custody, control, and conduct of the child to be under the supervision of the social worker who may place the child in any of the following:

(1) The home of a noncustodial parent as described in subdivision (a), regardless of the parent's immigration status.

(2) The approved home of a relative, regardless of the relative's immigration status.

(3) The approved home of a nonrelative extended family member as defined in Section 362.7.

~~(4)~~ *The approved home of a resource family as defined in Section 16519.5.*

~~(4)~~ (5) A foster home in which the child has been placed before an interruption in foster care, if that placement is in the best interest of the child and space is available.

~~(5)~~ (6) A suitable licensed community care facility, except a runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code.

~~(6)~~ (7) With a foster family agency to be placed in a suitable licensed foster family home or certified family home which has been certified by the agency as meeting licensing standards.

~~(7)~~ (8) A home or facility in accordance with the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

~~(8)~~ (9) A child under ~~the age of~~ six years *of age* may be placed in a community care facility licensed as a group home for children, or a temporary shelter care facility as defined in Section 1530.8 of the Health and Safety Code, only under any of the following circumstances:

(A) (i) When a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment to the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of subdivision (c) of Section 16501.1, the facility meets the applicable regulations adopted under Section 1530.8 of the Health and Safety Code and standards developed pursuant to Section ~~11467.1,~~ *11467.1 of this code*, and the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department has approved the case plan.

(ii) The short term, specialized, and intensive treatment period shall not exceed 120 days, unless the county has made progress toward or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(iii) To the extent that placements pursuant to this paragraph are extended beyond an initial 120 days, the requirements of clauses (i) and (ii) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

(B) When a case plan indicates that placement is for purposes of providing family reunification services. In addition, the facility offers family reunification services that meet the needs of the individual child and his or her family, permits parents to have reasonable access to their children 24 hours a day, encourages extensive parental involvement in meeting the daily needs of their children, and employs staff trained to provide family reunification services. In addition, one of the following conditions exists:

(i) The child's parent is also a ward of the court and resides in the facility.

(ii) The child's parent is participating in a treatment program affiliated with the facility and the child's placement in the facility facilitates the coordination and provision of reunification services.

(iii) Placement in the facility is the only alternative that permits the parent to have daily 24-hour access to the child in accordance with the case plan, to participate fully in meeting all of the daily needs of the child, including feeding and personal hygiene, and to have access to necessary reunification services.

~~(9)~~ (10) (A) A child who is 6 to 12 years of age, inclusive, may be placed in a community care facility licensed as a group home for children only when a case plan indicates that placement is for purposes of providing ~~short-term,~~ *short term*, specialized, and intensive treatment for the child, the case plan specifies the need for, nature of, and anticipated duration of this treatment, pursuant to paragraph (2) of

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subdivision (c) of Section 16501.1, and is approved by the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(B) The ~~short term,~~ *short term*, specialized, and intensive treatment period shall not exceed six months, unless the county has made progress or is actively working toward implementing the case plan that identifies the services or supports necessary to transition the child to a family setting, circumstances beyond the county's control have prevented the county from obtaining those services or supports within the timeline documented in the case plan, and the need for additional time pursuant to the case plan is documented by the caseworker and approved by a deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department.

(C) To the extent that placements pursuant to this paragraph are extended beyond an initial six months, the requirements of ~~subparagraph~~ *subparagraphs* (A) and (B) shall apply to each extension. In addition, the deputy director or director of the county child welfare department or an assistant chief probation officer or chief probation officer of the county probation department shall approve the continued placement no less frequently than every 60 days.

~~(10)~~ (11) Nothing in this subdivision shall be construed to allow a social worker to place any dependent child outside the United States, except as specified in subdivision (f).

(f) (1) A child under the supervision of a social worker pursuant to subdivision (e) shall not be placed outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and ~~must~~ *shall* show, by clear and convincing evidence, that placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This subdivision shall not apply to the placement of a dependent child with a parent pursuant to subdivision (a).

(g) (1) If the child is taken from the physical custody of the child's parent or guardian and unless the child is placed with relatives, the child shall be placed in foster care in the county of residence of the child's parent or guardian in order to facilitate reunification of the family.

(2) In the event that there are no appropriate placements available in the parent's or guardian's county of residence, a placement may be made in an appropriate place in another county, preferably a county located adjacent to the parent's or guardian's community of residence.

(3) Nothing in this section shall be interpreted as requiring multiple disruptions of the child's placement corresponding to frequent changes of residence by the parent or guardian. In determining whether the child should be moved, the social worker shall take into consideration the potential harmful effects of disrupting the placement of the child and the parent's or guardian's reason for the move.

(4) When it has been determined that it is necessary for a child to be placed in a county other than the child's parent's or guardian's county of residence, the specific reason the out-of-county placement is necessary shall be documented in the child's case plan. If the reason the out-of-county placement is necessary is the lack of resources in the sending county to meet the specific needs of the child, those specific resource needs shall be documented in the case plan.

(5) When it has been determined that a child is to be placed out of county either in a group home or with a foster family agency for subsequent placement in a certified foster family home, and the sending county is to maintain responsibility for supervision and visitation of the child, the sending county shall develop a plan of supervision and visitation that specifies the supervision and visitation activities to be performed and specifies that the sending county is responsible for performing those activities. In addition to the plan of supervision and visitation, the sending county shall document information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern in the receiving county. Upon implementation of the Child Welfare Services Case Management System, the plan of supervision and visitation, as well as information regarding any known or suspected dangerous behavior of the child, shall be made available to the receiving county upon placement of the child in the receiving county. If placement occurs on a weekend or holiday, the information shall be made available to the receiving county on or before the end of the next business day.

(6) When it has been determined that a child is to be placed out of county and the sending county plans that the receiving county shall be responsible for the supervision and visitation of the child, the sending county shall develop a formal agreement between the sending and receiving counties. The formal agreement shall specify the supervision and visitation to be provided the child, and shall specify that the receiving county is responsible for providing the supervision and visitation. The formal agreement shall be approved and signed by the sending and receiving counties prior to placement of the child in the receiving county. In addition, upon completion of the case plan, the sending county shall provide a copy of the completed case plan to the receiving county. The case plan shall include information regarding any known or suspected dangerous behavior of the child that indicates the child may pose a safety concern to the receiving county.

(h) Whenever the social worker must change the placement of the child and is unable to find a suitable placement within the county and must place the child outside the county, the placement shall not be made until he or she has served written notice on the parent or guardian at least 14 days prior to the placement, unless the child's health or well-being is endangered by delaying the action or would be endangered if prior notice were given. The notice shall state the reasons which require placement outside the county. The parent or guardian may object to the placement not later than seven days after receipt of the notice and, upon objection, the court shall hold a hearing not later than five days after the objection and prior to the placement. The court shall order out-of-county placement if it finds that the child's particular needs require placement outside the county.

(i) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interest of the child will be served by granting visitation rights to the child's grandparents. The court shall clearly specify those rights to the social worker.

(j) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether there are any siblings under the court's jurisdiction, ~~the~~ *or any nondependent siblings in the physical custody of a parent subject to the court's jurisdiction, the* nature of the relationship between the child and his or her siblings, the appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002, and the impact of the sibling relationships on the child's placement and planning for legal permanence.

(k) (1) ~~When an agency has placed a child with a relative caregiver, a nonrelative extended family member, a licensed foster family home, or a group home, the agency~~ *An agency* shall ensure placement of ~~the~~ *a* child in a home that, to the fullest extent possible, best meets the day-to-day needs of the child.

A home that best meets the day-to-day needs of the child shall satisfy all of the following criteria:

(A) The child's caregiver is able to meet the day-to-day health, safety, and well-being needs of the child.

(B) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the day-to-day needs of the child.

(C) The child is permitted to engage in reasonable, age-appropriate day-to-day activities that promote the most family-like environment for the foster child.

(2) The foster child's caregiver shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, to determine day-to-day activities that are ~~age-appropriate~~ *age appropriate* to meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in day-to-day activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

SEC. 3.

Section 362.1 of the Welfare and Institutions Code is amended to read:

362.1.

(a) In order to maintain ties between the parent or guardian and any siblings and the child, and to provide information relevant to deciding if, and when, to return a child to the custody of his or her parent or guardian, or to encourage or suspend sibling interaction, any order placing a child in foster care, and ordering reunification services, shall provide as follows:

(1) (A) Subject to subparagraph (B), for visitation between the parent or guardian and the child. Visitation shall be as frequent as possible, consistent with the well-being of the child.

(B) No visitation order shall jeopardize the safety of the child. To protect the safety of the child, the court may keep the child's address confidential. If the parent of the child has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, and the victim of the murder was the other parent of the child, the court shall order visitation between the child and the parent only if that order would be consistent with Section 3030 of the Family Code.

(2) Pursuant to subdivision (b) of Section 16002, for visitation between the child and any siblings, unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child.

(3) Pursuant to subdivision (c) of Section 16002, for review of the reasons for any suspension of sibling interaction at each periodic review hearing pursuant to Section 366, and for a requirement that, in order for a suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child.

~~(3)~~ (4) If the child is a teen parent who has custody of his or her child and that child is not a dependent of the court pursuant to this chapter, for visitation among the teen parent, the child's noncustodial parent, and appropriate family members, unless the court finds by clear and convincing evidence that visitation would be detrimental to the teen parent.

(b) When reunification services are not ordered pursuant to Section 361.5, the child's plan for legal permanency shall include consideration of the existence of and the relationship with any sibling pursuant to Section 16002, including their impact on placement and visitation.

(c) As used in this section, "sibling" means a child related to another person by blood, adoption, or affinity through a common legal or biological parent.

SEC. 4.

Section 366 of the Welfare and Institutions Code is amended to read:

366.

(a) (1) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.26 is completed. The court shall consider the safety of the child and shall determine all of the following:

(A) The continuing necessity for and appropriateness of the placement.

(B) The extent of the agency's compliance with the case plan in making reasonable efforts, or, in the case of an Indian child, active efforts as described in Section 361.7, to return the child to a safe home and to complete any steps necessary to finalize the permanent placement of the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer, and individuals other than the child's siblings who are important to the child, consistent with the child's best interests.

(C) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed those necessary to protect the child. Whenever the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

(D) (i) Whether the child has other siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(I) The nature of the relationship between the child and his or her siblings.

(II) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(III) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(IV) If the siblings are not placed together, ~~the frequency and nature- all~~ of the ~~visits between siblings-~~ following:

(ia) The frequency and nature of the visits between the siblings.

(ib) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(ic) If there are visits between the siblings, a description of the location and length of the visits.

(id) Any plan to increase visitation between the siblings.

(V) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(VI) The continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002.

(ii) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(E) The extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care.

(F) If the review hearing is the last review hearing to be held before the child attains 18 years of age, the court shall conduct the hearing pursuant to Section 366.31 or 366.32.

(2) The court shall project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption, legal guardianship, or in another planned permanent living arrangement.

(b) Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

(d) (1) A review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall not result in a placement of a child outside the United States prior to a judicial finding that the placement is in the best interest of the child, except as required by federal law or treaty.

(2) The party or agency requesting placement of the child outside the United States shall carry the burden of proof and must show, by clear and convincing evidence, that a placement outside the United States is in the best interest of the child.

(3) In determining the best interest of the child, the court shall consider, but not be limited to, the following factors:

(A) Placement with a relative.

(B) Placement of siblings in the same home.

(C) Amount and nature of any contact between the child and the potential guardian or caretaker.

(D) Physical and medical needs of the dependent child.

(E) Psychological and emotional needs of the dependent child.

(F) Social, cultural, and educational needs of the dependent child.

(G) Specific desires of any dependent child who is 12 years of age or older.

(4) If the court finds that a placement outside the United States is, by clear and convincing evidence, in the best interest of the child, the court may issue an order authorizing the social worker or placing agency

to make a placement outside the United States. A child subject to this subdivision shall not leave the United States prior to the issuance of the order described in this paragraph.

(5) For purposes of this subdivision, "outside the United States" shall not include the lands of any federally recognized American Indian tribe or Alaskan Natives.

(6) This section shall not apply to the placement of a dependent child with a parent.

(e) A child may not be placed in an out-of-state group home, or remain in an out-of-state group home, unless the group home is in compliance with Section 7911.1 of the Family Code.

(f) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(g) The status review of every nonminor dependent, as defined in subdivision (v) of Section 11400, shall be conducted pursuant to the requirements of Sections 366.3, 366.31, or 366.32, and 16503 until dependency jurisdiction is terminated pursuant to Section 391.

SEC. 5.

Section 366.1 of the Welfare and Institutions Code is amended to read:

366.1.

Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department social worker has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents, if appropriate under the circumstances.

(b) What plan, if any, for the return and maintenance of the child in a safe home is recommended to the court by the county welfare department social worker.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(d) What actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court.

(e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the supplemental report makes that recommendation, the report shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

(f) (1) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, ~~the frequency and nature- all~~ of the ~~visits between siblings-~~ following:

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(g) Whether a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer has relationships with individuals other than the child's siblings that are important to the child, consistent with the child's best interests, and actions taken to maintain those relationships. The social worker shall ask every child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer to identify any individuals other than the child's siblings who are important to the child, consistent with the child's best interest. The social worker may ask any other child to provide that information, as appropriate.

(h) The implementation and operation of the amendments to subdivision (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 5.5.

Section 366.1 of the Welfare and Institutions Code is amended to read:

366.1.

Each supplemental report required to be filed pursuant to Section 366 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department social worker has considered either of the following:

~~(a) Whether the (1) county welfare department social worker has considered child- Child~~ protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered those services to qualified parents, if appropriate under the circumstances.

(2) Whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.

(b) What plan, if any, for the return and maintenance of the child in a safe home is recommended to the court by the county welfare department social worker.

(c) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(d) What actions, if any, have been taken by the parent to correct the problems that caused the child to be made a dependent child of the court.

(e) If the parent or guardian is unwilling or unable to participate in making an educational decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational decisions for the child, the county welfare department or social worker shall consider whether the right of the parent or guardian to make educational decisions for the child should be limited. If the supplemental report makes that recommendation, the report shall identify whether there is a responsible adult available to make educational decisions for the child pursuant to Section 361.

(f) (1) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, ~~the frequency and nature- all~~ of the ~~visits between siblings- following:~~

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence.

(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(g) Whether a child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer has relationships with individuals other than the child's siblings that are important to the child, consistent with the child's best interests, and actions taken to maintain those relationships. The social worker shall ask every child who is 10 years of age or older and who has been in an out-of-home placement for six months or longer to identify any individuals other than the child's siblings who are important to the child, consistent with the child's best interest. The social worker may ask any other child to provide that information, as appropriate.

(h) The implementation and operation of the amendments to subdivision (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 6.

Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3.

(a) If a juvenile court orders a permanent plan of adoption, tribal customary adoption, adoption of a nonminor dependent pursuant to subdivision (f) of Section 366.31, or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child or nonminor dependent until the child or nonminor dependent is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.32. The status of the child or nonminor dependent shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. When the adoption of the child or nonminor dependent has been granted, or in the case of a tribal customary adoption, when the tribal customary adoption order has been afforded full faith and credit and the petition for adoption has been granted, the court shall terminate its jurisdiction over the child or nonminor dependent. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least six months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights, the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the child.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held either in the juvenile court that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the

county where the guardian and child currently reside, based on the best interests of the child, unless the termination is due to the emancipation or adoption of the child. The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing. Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department having jurisdiction or jointly with the county department where the guardian and child currently reside to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal guardianship is granted, either juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the legal guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the child in another permanent placement. At the hearing, the parents may be considered as custodians but the child shall not be returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the child. The court may, if it is in the best interests of the child, order that reunification services again be provided to the parent or parents.

(c) If, following the establishment of a legal guardianship, the county welfare department becomes aware of changed circumstances that indicate adoption or, for an Indian child, tribal customary adoption, may be an appropriate plan for the child, the department shall so notify the court. The court may vacate its previous order dismissing dependency jurisdiction over the child and order that a hearing be held pursuant to Section 366.26 to determine whether adoption or continued legal guardianship is the most appropriate plan for the child. The hearing shall be held no later than 120 days from the date of the order. If the court orders that a hearing shall be held pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services if it is acting as an adoption agency, to prepare an assessment under subdivision (b) of Section 366.22.

(d) If the child or, on and after January 1, 2012, nonminor dependent is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child or, on and after January 1, 2012, nonminor dependent for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

- (1) Upon the request of the child's parents or legal guardians.
- (2) Upon the request of the child or, on and after January 1, 2012, nonminor dependent.
- (3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, 366.25, 366.26, or subdivision (h).
- (4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (g), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

- (1) The continuing necessity for, and appropriateness of, the placement.
- (2) Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older and has been in out-of-home placement for six months or longer, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older and who has been in out-of-home placement for six months or longer to identify individuals other than the child's

siblings who are important to the child, and may ask any other child to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

(3) The continuing appropriateness and extent of compliance with the permanent plan for the child, including efforts to maintain relationships between a child who is 10 years of age or older and who has been in out-of-home placement for six months or longer and individuals who are important to the child and efforts to identify a prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts either to return the child to the safe home of the parent or to complete whatever steps are necessary to finalize the permanent placement of the child. If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f), the specific reunification services required to effect the child's return to a safe home shall be described.

(5) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

(6) The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(7) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(8) The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, in another planned permanent living arrangement, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.

(9) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, ~~the frequency and nature- all~~ of the ~~visits between siblings-~~ following:

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.

(iii) If there are visits between the siblings, a description of the location and length of the visits.

(iv) Any plan to increase visitation between the siblings.

(E) The impact of the sibling relationships on the child's placement and planning for legal permanence. The factors the court may consider as indicators of the nature of the child's sibling relationships include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.

(10) For a child who is 16 years of age or older, and, effective January 1, 2012, for a nonminor dependent, the services needed to assist the child or nonminor dependent to make the transition from foster care to independent living.

The reviewing body shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

Each licensed foster family agency shall submit reports for each child in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the child's permanent

plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the child.

(f) Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents up to a period of six months, and family maintenance services, as needed for an additional six months in order to return the child to a safe home environment. On and after January 1, 2012, this subdivision shall not apply to the parents of a nonminor dependent.

(g) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, or, for an Indian child for whom parental rights are not being terminated and a tribal customary adoption is being considered, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

(12) Recommendations for court orders that will assist in the placement of the child for adoption or in the finalization of the adoption.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

The court shall make appropriate orders to protect the stability of the child and to facilitate and expedite the permanent placement and adoption of the child.

(h) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the county adoption agency, or the department when it is acting as an adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in long-term foster care, without holding a hearing

pursuant to Section 366.26. On and after January 1, 2012, the nonminor dependent's legal status as an adult is in and of itself a compelling reason not to hold a hearing pursuant to Section 366.26.

(i) If, as authorized by subdivision (h), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, tribal customary adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent, unless the nonminor dependent is an Indian child and tribal customary adoption is recommended as the permanent plan. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement. At the request of the nonminor dependent who has an established relationship with an adult determined to be the nonminor dependent's permanent connection, the court may order adoption of the nonminor dependent pursuant to subdivision (f) of Section 366.31.

(j) The implementation and operation of the amendments to subdivision (e) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

(k) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

SEC. 7.

Section 388 of the Welfare and Institutions Code is amended to read:

388.

(a) (1) Any parent or other person having an interest in a child who is a dependent child of the juvenile court or a nonminor dependent as defined in subdivision (v) of Section 11400, or the child himself or herself or the nonminor dependent through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child or the nonminor dependent shall state the petitioner's relationship to or interest in the child or the nonminor dependent and shall set forth in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

(2) When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

(b) (1) Any person, including a child or ~~the a~~ nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be

shown to be in the best interest of the dependent child. ~~The court may appoint a guardian ad litem to file the petition for the dependent child asserting the sibling relationship if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:~~

~~(2) A child or nonminor dependent who is a dependent of the juvenile court may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is in the physical custody of a common legal or biological parent, and may request visitation with the nondependent sibling in parental custody.~~

~~(3) Pursuant to subdivision (b) of Section 16002, a request for sibling visitation may be granted unless it is determined by the court that sibling visitation is contrary to the safety and well-being of any of the siblings.~~

~~(4) The court may appoint a guardian ad litem to file the petition for a dependent child asserting a sibling relationship pursuant to this subdivision if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:~~

~~(1) (A) Through which parent he or she is related to the dependent child- sibling.~~

~~(2) (B) Whether he or she is related to the dependent child- sibling by blood, adoption, or affinity.~~

~~(3) (C) The request or order that the petitioner is seeking.~~

~~(4) (D) Why that request or order is in the best interest of the dependent child.~~

(c) (1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors that include but are not limited to, the parent's or guardian's incarceration, institutionalization, detention by the United States Department of Homeland Security, deportation, or participation in a court-ordered residential substance abuse treatment program.

(3) The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

(4) Any party, including a nonminor dependent, as defined in subdivision (v) of Section 11400, may petition the court prior to the review hearing set pursuant to subdivision (d) of Section 366.31 to terminate the continuation of court-ordered family reunification services for a nonminor dependent who has attained 18 years of age. The court shall terminate family reunification services to the parent or guardian if the nonminor dependent or parent or guardian are not in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent.

(5) If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent. The court may order a nonminor dependent who is otherwise eligible to AFDC-FC benefits pursuant to Section 11403 to remain in a planned, permanent living arrangement.

(d) If it appears that the best interests of the child or the nonminor dependent may be promoted by the proposed change of order, modification of reunification services, custody, or visitation orders concerning a child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the

persons and in the manner prescribed by Section 386, and, in those instances in which the manner of giving notice is not prescribed by those sections, then in the manner the court prescribes.

(e) (1) On and after January 1, 2012, a nonminor who attained 18 years of age while subject to an order for foster care placement and, commencing January 1, 2012, who has not attained 19 years of age, or, commencing January 1, 2013, 20 years of age, or, commencing January 1, 2014, 21 years of age, or as described in Section 10103.5, for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303, or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, subject to an order for foster care placement when he or she attained 18 years of age, and has not attained the age limits described in paragraph (1).

(ii) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5, may be used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

(5) (A) The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(i) The nonminor was previously under juvenile court jurisdiction subject to an order for foster care placement when he or she attained 18 years of age.

(ii) The nonminor has not attained the age limits described in paragraph (1).

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(iii) Reentry and remaining in foster care are in the nonminor's best interests.

(iv) The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency and to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

(C) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.3 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

SEC. 8.

Section 706.6 of the Welfare and Institutions Code is amended to read:

706.6.

A case plan prepared as required by Section 706.5 shall be submitted to the court. It shall either be attached to the social study or incorporated as a separate section within the social study. The case plan shall include, but not be limited to, the following information:

(a) A description of the circumstances that resulted in the minor being placed under the supervision of the probation department and in foster care.

(b) An assessment of the minor's and family's strengths and needs and the type of placement best equipped to meet those needs.

(c) A description of the type of home or institution in which the minor is to be placed, including a discussion of the safety and appropriateness of the placement. An appropriate placement is a placement in the least restrictive, most family-like environment, in closest proximity to the minor's home, that meets the minor's best interests and special needs.

(d) Effective January 1, 2010, a case plan shall ensure the educational stability of the child while in foster care and shall include both of the following:

(1) Assurances that the placement takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

(2) An assurance that the placement agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(e) Specific time-limited goals and related activities designed to enable the safe return of the minor to his or her home, or in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation. Specific responsibility for carrying out the planned activities shall be assigned to one or more of the following:

(1) The probation department.

(2) The minor's parent or parents or legal guardian or guardians, as applicable.

(3) The minor.

(4) The foster parents or licensed agency providing foster care.

(f) The projected date of completion of the case plan objectives and the date services will be terminated.

(g) (1) Scheduled visits between the minor and his or her family and an explanation if no visits are made.

(2) *Whether the child has other siblings, and, if any siblings exist, all of the following:*

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- (A) The nature of the relationship between the child and his or her siblings.*
- (B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.*
- (C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.*
- (D) If the siblings are not placed together, all of the following:*
 - (i) The frequency and nature of the visits between the siblings.*
 - (ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a discussion of the reasons why the visits are supervised, and what needs to be accomplished in order for the visits to be unsupervised.*
 - (iii) If there are visits between the siblings, a description of the location and length of the visits.*
 - (iv) Any plan to increase visitation between the siblings.*
- (E) The impact of the sibling relationships on the child's placement and planning for legal permanence.*
- (F) The continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002.*
- (3) The factors the court may consider in making a determination regarding the nature of the child's sibling relationships may include, but are not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interests.*
- (h) (1) When placement is made in a foster family home, group home, or other child care institution that is either a substantial distance from the home of the minor's parent or legal guardian or out-of-state, the case plan shall specify the reasons why the placement is the most appropriate and is in the best interest of the minor.
- (2) When an out-of-state group home placement is recommended or made, the case plan shall comply with Section 727.1 and Section 7911.1 of the Family Code. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for this particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended.
- (i) If applicable, efforts to make it possible to place siblings together, unless it has been determined that placement together is not in the best interest of one or more siblings.
- (j) A schedule of visits between the minor and the probation officer, including a monthly visitation schedule for those children placed in group homes.
- (k) Health and education information about the minor, school records, immunizations, known medical problems, and any known medications the minor may be taking, names and addresses of the minor's health and educational providers; the minor's grade level performance; assurances that the minor's placement in foster care takes into account proximity to the school in which the minor was enrolled at the time of placement; and other relevant health and educational information.
- (l) When out-of-home services are used and the goal is reunification, the case plan shall describe the services that were provided to prevent removal of the minor from the home, those services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail.
- (m) The updated case plan prepared for a permanency planning hearing shall include a recommendation for a permanent plan for the minor. If, after considering reunification, adoptive placement, legal guardianship, or permanent placement with a fit and willing relative the probation officer recommends placement in a planned permanent living arrangement, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the minor's best interest. For purposes of this subdivision, a "compelling reason" shall have the same meaning as in subdivision (c) of Section 727.3.
- (n) Each updated case plan shall include a description of the services that have been provided to the minor under the plan and an evaluation of the appropriateness and effectiveness of those services.
- (o) A statement that the parent or legal guardian, and the minor have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan, and to receive a copy of the plan, or an explanation about why the parent, legal guardian, or minor was not able to participate or sign the case plan.
- (p) For a minor in out-of-home care who is 16 years of age or older, a written description of the programs and services, which will help the minor prepare for the transition from foster care to independent living.

SEC. 9.

Section 778 of the Welfare and Institutions Code is amended to read:

778.

(a) (1) Any parent or other person having an interest in a child who is a ward of the juvenile court or the child himself or herself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a ward of the juvenile court for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such change of order or termination of jurisdiction.

(2) If it appears that the best interests of the child may be promoted by the proposed change of order or termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Sections 776 and 779, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

(b) (1) Any person, including a ward, a transition dependent, or a nonminor dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a ward of the juvenile court, and may request visitation with the ward, placement with or near the ward, or consideration when determining or implementing a case plan or permanent plan for the ward.

(2) A ward, transition dependent, or nonminor dependent of the juvenile court may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is in the physical custody of a common legal or biological parent, and may request visitation with the nondependent sibling in parental custody.

(3) Pursuant to subdivision (b) of Section 16002, a request for sibling visitation may be granted unless it is determined by the court that sibling visitation is contrary to the safety and well-being of any of the siblings.

(4) The court may appoint a guardian ad litem to file the petition for a ward asserting a sibling relationship pursuant to this subdivision if the court determines that the appointment is necessary for the best interests of the ward. The petition shall be verified and shall set forth the following:

(A) Through which parent he or she is related to the sibling.

(B) Whether he or she is related to the sibling by blood, adoption, or affinity.

(C) The request or order that the petitioner is seeking.

(D) Why that request or order is in the best interest of the ward.

SEC. 10.

Section 16002 of the Welfare and Institutions Code is amended to read:

16002.

(a) (1) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(2) It is also the intent of the Legislature to preserve and strengthen a child's sibling relationship so that when a child has been removed from his or her home and he or she has a sibling or siblings who remain in the custody of a mutual parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent ~~children,~~ *children and wards in foster care*, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended.

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section ~~366-~~ *366 or 727.3. In order for the suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child.* When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or his or her parent or legal ~~guardian~~ *guardian*, shall have the right to comment on those provisions. If a person wishes to assert a sibling relationship with a dependent ~~child,~~ *child or ward*, he or she may file a petition in the juvenile court having jurisdiction over the dependent child pursuant to subdivision (b) of Section ~~388.~~ *388 or the ward in foster care pursuant to Section 778.*

(e) If parental rights are terminated and the court orders a dependent child *or ward* to be placed for adoption, the county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3) Encourage prospective adoptive parents to make a plan for facilitating postadoptive contact between the child who is the subject of a petition for adoption and any siblings of this child.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) As used in this section, "sibling" means a child related to another person by blood, adoption, or affinity through a common legal or biological parent.

(h) The court documentation on sibling placements required under this section shall not require the modification of existing court order forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

SEC. 10.5.

Section 16002 of the Welfare and Institutions Code is amended to read:

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(a) (1) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(2) It is also the intent of the Legislature to preserve and strengthen a child's sibling relationship so that when a child has been removed from his or her home and he or she has a sibling or siblings who remain in the custody of a mutual parent subject to the court's jurisdiction, the court has the authority to develop a visitation plan for the siblings, unless it has been determined that visitation is contrary to the safety or well-being of any sibling.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent ~~children,~~ *children and wards in foster care*, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker *or probation officer* shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended.

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section ~~366-~~ *366 or 727.3*. *In order for the suspension to continue, the court shall make a renewed finding that sibling interaction is contrary to the safety or well-being of either child.* When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or his or her parent or legal ~~guardian~~ *guardian*, shall have the right to comment on those provisions. If a person wishes to assert a sibling relationship with a dependent ~~child,~~ *child or ward*, he or she may file a petition in the juvenile court having jurisdiction over the dependent child pursuant to subdivision (b) of Section ~~388-~~ *388 or the ward in foster care pursuant to Section 778.*

(e) If parental rights are terminated and the court orders a dependent child *or ward* to be placed for adoption, the county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3) Encourage prospective adoptive parents to make a plan for facilitating postadoptive contact between the child who is the subject of a petition for adoption and any siblings of this child.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) As used in this section, "sibling" means a child related to another person by blood, adoption, or affinity through a common legal or biological parent.

(h) The court documentation on sibling placements required under this section shall not require the modification of existing court order forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

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SEC. 11.

(a) (1) Section 1.5 of this bill incorporates amendments to Section 358.1 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 977. It shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2015, (B) each bill amends Section 358.1 of the Welfare and Institutions Code, and (C) this bill is enacted after Senate Bill 977, in which case Section 1 of this bill shall not become operative.

(2) Section 5.5 of this bill incorporates amendments to Section 366.1 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 977. It shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2015, (B) each bill amends Section 366.1 of the Welfare and Institutions Code, and (C) this bill is enacted after Senate Bill 977, in which case Section 5 of this bill shall not become operative.

(b) Section 10.5 of this bill incorporates amendments to Section 16002 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1460. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 16002 of the Welfare and Institutions Code, and (3) this bill is enacted after Senate Bill 1460, in which case Section 10 of this bill shall not become operative.

(c) (1) Section 2.1 of this bill incorporates amendments to Section 361.2 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 977. It shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2015, (B) each bill amends Section 361.2 of the Welfare and Institutions Code, (C) Senate Bill 1460 is not enacted or as enacted does not amend that section, and (D) this bill is enacted after Senate Bill 977, in which case Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(2) Section 2.2 of this bill incorporates amendments to Section 361.2 of the Welfare and Institutions Code proposed by both this bill and Senate Bill 1460. It shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2015, (B) each bill amends Section 361.2 of the Welfare and Institutions Code, (C) Senate Bill 977 is not enacted or as enacted does not amend that section, and (D) this bill is enacted after Senate Bill 1460 in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(3) Section 2.3 of this bill incorporates amendments to Section 361.2 of the Welfare and Institutions Code proposed by this bill, Senate Bill 977, and Senate Bill 1460. It shall only become operative if (A) all three bills are enacted and become effective on or before January 1, 2015, (B) all three bills amend Section 361.2 of the Welfare and Institutions Code, and (C) this bill is enacted after Senate Bill 977 and Senate Bill 1460, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 12.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

The court will complete this form after reviewing the Request to Change Court Order (form JV-180) and either grant the request, deny the request, or set a hearing on the request.

After reading and considering the Request to Change Court Order (form JV-180) filed by:

Name: _____

on (date): _____

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of _____

The Court Finds and Orders:

- ① All parties and attorneys agree to the request. The request is granted:
 - a. as requested in item 8 of form JV-180.
 - b. as follows (state specific modifications):

Fill in child's name:

Child's Name: _____

Fill in case number:

Case Number: _____

- ② The request is denied because:
 - a. The request is not signed.
 - b. The request does not state new evidence or a change of circumstances.
 - c. The proposed change of order, recognition of sibling relationships, or termination of jurisdiction does not promote the best interest of the child.
 - d. Other (state the specific reason): _____

*see attached
f

- ③ The court orders a hearing on the form JV-180 request because the best interest of the child may be promoted by the request. The hearing will take place on (date): _____
at (time): _____ (circle one) a.m./p.m. in department _____
of the Superior Court of _____ County located at _____

Date: _____

Judicial officer

Proposed changes to JV-183

2d. The request is for visitation with a dependent of the court and the proposed change of order does not promote the best interest of the child.

2e. The request is for visitation with a non-dependent of the court and the proposed change of order is contrary to the safety or well-being of one or more of the siblings.

Draft

CHILD'S NAME: _____	CASE NUMBER: _____
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**CHILD'S INFORMATION SHEET—
REQUEST TO CHANGE COURT ORDER**
(Welf. & Inst. Code, §§ 353.1, 388)

* see page 2

TO THE CHILD: This information sheet tells you about your right to ask the court to change a decision the court has made about your life and the rules that must be followed when you want to ask the court to change a decision. It also explains your right to ask the court to make an order about your relationship with a brother or sister. If you are under 12 years of age, your attorney must talk with you about this information. If you are 12 years of age or older and in court at the dispositional hearing, the court must also talk with you about this information. The court must mail this information to you after a dispositional hearing.

A. I have just made a decision about your life. I will be making other decisions about your life. You have a right to ask me to change a decision I have made. You have an attorney who will help you with this.

For me to change a decision I have made, you must talk with your attorney and have your attorney ask me to change my decision.

Your attorney will have to fill out a form called *Request to Change Court Order* (form JV-180).

The form will explain to me the changes that have happened in your life and why the changes you want me to make in the court order will make things better for you.

You may get a copy of the blank form from your attorney or from the court clerk's office at the courthouse to review so you know what information needs to be on the form.

1. You must tell your attorney the following information:
 - a. What has changed since I made the decision? If nothing has changed, what new information do you want to tell me?
 - b. What changes to my decision do you want me to make?
 - c. If I make the changes you want, will you be better off than if I do not make these changes? Tell me how the changes will make you healthier, safer, and happier.

2. After you speak with your attorney, your attorney will fill out the form.
 - a. I will read the form.
 - b. I may ask the other people involved with your case if they think you have given me the kind of information I must have in order to change my decision. Then I will decide if you told me anything new and if the change you want me to make is good for you.
 - c. If I believe you have not told me anything new or if I believe what you want me to change is not good for you, I will not make any changes. The court clerk will send a written notice of my decision not to make any changes to you and all the people involved with your case.
 - d. If I believe you did tell me something new and what you are asking me to change may be better for you, I will schedule a court date for you. The court clerk will send a written notice of my decision to schedule a hearing and the date of the hearing to you and all the people involved with your case.
 - e. At that court date, everyone involved in your case will be present and allowed to speak.
 - f. After everyone has spoken, I will make the final decision. I will make the changes you want only if I believe you have told me something new and what you are asking for is good for you.

CHILD'S NAME:	CASE NUMBER:
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- B. If you have a brother or sister who is or might become a dependent of the court, you may ask me to make an order permitting visits, to make an order placing you in the same home, to make other orders that may be in the best interest of your brother or sister, and to consider your relationship with your brother or sister when making decisions about him or her.

For me to make these orders, you must tell your attorney you would like to ask me to make an order about your brother or sister.

Your attorney will fill out a form asking me to make the order about your brother or sister.

The court clerk will send a written notice of my decision to schedule a hearing and the date of the hearing to you and all the people involved with your brother's or sister's case.

At that court date, everyone involved in the case will be present and allowed to speak.

After everyone has spoken, I will make the final decision. I will make the order about your brother or sister that you asked me to make only if I believe what you are asking for is good for your brother or sister.

Please ask your attorney if you have any questions. Your attorney will be able to answer your questions about court procedures and the laws I will apply in making my decisions.

* C. See attached

Date:

JUDICIAL OFFICER

Proposed changes to JV-185

C. If you have a brother or sister who is not a dependent of the court, you may ask me to make an order permitting visits.

The court clerk will send a written notice of my decision to schedule a hearing and the date of the hearing to you and all the people involved with your brother's or sister's case.

At that court date, everyone involved in the case will be present and allowed to speak.

After everyone has spoken, I will make the final decision. I will make an order permitting visits only if I believe that the order provides for your or your brother's or sister's safety and well-being.

CHILD'S NAME:

CASE NUMBER:

1. The child has siblings under the court's jurisdiction.**a. The nature of the relationship between the child and the child's siblings is**

- (1) stated on the record.
 (2) described in the social worker's report.
 (3) other (*specify*):

b. (1) Developing or maintaining the sibling relationship with the siblings named below is appropriate.

- (a) (*name*): (d) (*name*):
 (b) (*name*): (e) (*name*):
 (c) (*name*): (f) (*name*):

(2) Developing or maintaining the sibling relationship with the siblings named below is not appropriate.

- (a) (*name*): (d) (*name*):
 (b) (*name*): (e) (*name*):
 (c) (*name*): (f) (*name*):

(3) The basis for the finding in item 1b is

- (a) stated on the record.
 (b) described in the social worker's report.
 (c) other (*specify*):

c. The impact of the sibling relationships on the child's placement and planning for legal permanence is

- (1) stated on the record.
 (2) described in the social worker's report.
 (3) other (*specify*):

2. The child and all of the child's siblings under the court's jurisdiction are placed together in the same home.**3. The child and all of the child's siblings under the court's jurisdiction are not placed together in the same home.****a. Efforts are being made to place the child and the following siblings together.****(1) Child's siblings:**

- (a) (*name*): (d) (*name*):
 (b) (*name*): (e) (*name*):
 (c) (*name*): (f) (*name*):

(2) The reasons the child and these siblings are not placed together and the efforts being made to do so are

- (a) stated on the record.
 (b) described in the social worker's report.
 (c) other (*specify*):

b. Efforts to place the child with the following siblings are not appropriate.**(1) Child's siblings:**

- (a) (*name*):
 (b) (*name*):
 (c) (*name*):

(2) The reasons that efforts to place the child with these siblings are not appropriate are

- (a) stated on the record.
 (b) described in the social worker's report.
 (c) other (*specify*):

c. The frequency and nature of the visits between the child and the child's siblings who are not placed together are

- (1) stated on the record.
 (2) described in the social worker's report.
 (3) other (*specify*):

JV-403 amendments

Add to end of form (this would turn this from a one-page to a two-page form):

d. The reasons why the visits between the child and the child's siblings who are not placed together are

- (1) stated on the record
- (2) described in the social worker's report
- (3) other (*specify*):

e. The location and length of the visits between the child and the child's siblings who are not placed together are

- (1) stated on the record
- (2) described in the social worker's report
- (3) other (*specify*):

f. The plan to increase visitation between the child and the child's siblings who are not placed together is

- (1) stated on the record
- (2) described in the social worker's report
- (3) other (*specify*):

1 **Rule 5.570. Request to change court order (petition for modification)**
2

3 **(a)– (c) *****
4

5 **(d) Denial of hearing**
6

7 The court may deny the petition ex parte if:
8

- 9 (1) The petition filed under section 388(a) or section 778(a) fails to state a
10 change of circumstance or new evidence that may require a change of order
11 or termination of jurisdiction or fails to show that the requested modification
12 would promote the best interest of the child, nonminor, or nonminor
13 dependent.
14
- 15 (2) The petition filed under section 388(b) or section 778(b) fails to demonstrate
16 that the requested modification would promote the best interest of the child;
17 or
18
- 19 (3) The petition filed under section 388(c) fails to state facts showing that the
20 parent has failed to visit the child or that the parent has failed to participate
21 regularly and make substantive progress in a court-ordered treatment plan or
22 fails to show that the requested termination of services would promote the
23 best interest of the child.
24
25

26 **(e) Grounds for grant of petition (§§ 388, 778)**
27

- 28 (1) If the petition filed under section 388(a) or section 778(a) states a change of
29 circumstance or new evidence and it appears that the best interest of the
30 child, nonminor, or nonminor dependent may be promoted by the proposed
31 change of order or termination of jurisdiction, the court may grant the petition
32 after following the procedures in (f), (g), and (h), or (i).
33
- 34 (2) If the petition is filed under section 388(b) and it appears that the best interest
35 of the child, nonminor, or nonminor dependent may be promoted by the
36 proposed recognition of a sibling relationship ~~and~~ or other requested orders,
37 the court may grant the petition after following the procedures in (f), (g), and
38 (h).
39
- 40 (3) If the petition is filed under section 388(b) and the request is for visitation
41 with a sibling who is not a dependent of the court, and it appears that sibling
42 visitation is not contrary to the safety and well-being of any of the siblings.

1 the court may grant the request after following the procedures in (f), (g), and
2 (h).

3
4 (4) If the petition is filed under section 778(b) and it appears that visitation is not
5 contrary to the safety and well being of the ward or any of the siblings, the
6 court may grant the request after following the procedures in (f), (g), and (i).

7
8 ~~(3)~~ (4) ***

9
10 ~~(4)~~ (5) ***

11
12 ~~(5)~~ (6) If the petition filed under section 388(a) is filed before an order
13 terminating parental rights and is seeking to modify an order that
14 reunification services ~~were not needed~~ need not be provided under section
15 361.5(b)(4), (5), or (6) or to modify any orders related to custody or visitation
16 of the child for whom reunification services were not ordered under section
17 361.5(b)(4), (5), or (6), the court may modify the orders only if the court
18 finds by clear and convincing evidence that the proposed change is in the best
19 interests of the child. The court may grant the petition after following the
20 procedures in (f), (g), and (h).

21
22 **(f) Hearing on petition**

23
24 If all parties stipulate to the requested modification, the court may order
25 modification without a hearing. If there is no such stipulation and the petition has
26 not been denied ex parte under section (d), the court must order that a hearing on
27 the petition for modification be held within 30 calendar days after the petition is
28 filed.

29
30
31 **(g) *****

32
33
34 **(h) Conduct of hearing (§ 388)**

35
36 (1) The petitioner requesting the modification under section 388 has the burden
37 of proof.

38
39 (A) If the request is for the removal of the child from the child's home, the
40 petitioner must show by clear and convincing evidence that the grounds
41 for removal in section 361(c) exist.

1 (B) If the request is for removal to a more restrictive level of placement, the
2 petitioner must show by clear and convincing evidence that the change
3 is necessary to protect the physical or emotional well being of the child.
4

5 ~~(A)~~(C) If the request is for termination of court-ordered reunification services,
6 the petitioner must show by clear and convincing evidence that one of
7 the conditions in section 388(c)(1)(A) or (B) exists and must show by a
8 preponderance of the evidence that reasonable services have been
9 offered or provided.

10
11 ~~(B)~~(D) If the request is to modify an order that reunification services were not
12 needed under section 361.5(b)(4), (5), or (6) or to modify any orders
13 related to custody or visitation of the child for whom reunification
14 services were not ordered under section 361.5(b)(4), (5), or (6), the
15 petitioner must show by clear and convincing evidence that the
16 proposed change is in the best interests of the child.

17
18 ~~(C)~~(E) All other requests require a preponderance of the evidence to show
19 that the child's welfare requires such a modification.
20

21 (2) If the request is for visitation with a sibling who is not a dependent of the
22 court, the court may grant the request unless it is determined by the court that
23 sibling visitation is contrary to the safety and well-being of any of the
24 siblings.
25

26 ~~(2)~~ (3) The hearing must be conducted as a dispositional hearing under rules 5.690
27 and 5.695 if:

28
29 (A) The request is for termination of court-ordered reunification services;
30 or

31
32 (B) There is a due process right to confront and cross-examine witnesses.
33

34 Otherwise, proof may be by declaration and other documentary evidence, or by
35 testimony, or both, at the discretion of the court.
36

37 (i) **Conduct of hearing (§ 778)**
38

39 (1) The petitioner requesting the modification under section 778(a) has the burden
40 of proving by a preponderance of the evidence that the ward's welfare requires the
41 modification. Proof may be by declaration and other documentary evidence, or by
42 testimony, or both, at the discretion of the court.
43

1 (2) If the request is for visitation under section 778(b) the court may grant the
2 request unless it is determined by the court that sibling visitation is contrary
3 to the safety and well-being of any of the siblings.
4
5

6 (j) **Petitions for juvenile court to resume jurisdiction over nonminors (§§ 388(e),**
7 **388.1)**

8
9 A petition filed by or on behalf of a nonminor requesting that the court resume
10 jurisdiction over the nonminor as a nonminor dependent is not subject to this rule.
11 Petitions filed under ~~subdivision (e) of section 388(e) or section 388.1~~ are subject
12 to rule 5.906.
13

14 **Rule 5.708. General review hearing requirements**

15
16 (a) – (b) ***

17
18 (c) **Reports (§§ 366.05, 366.1, 366.21, 366.22, 366.25)**

19
20 Before the hearing, the social worker must investigate and file a report describing
21 the services offered to the family, progress made, and, if relevant, the prognosis for
22 return of the child to the parent or legal guardian.
23

24 (1) The report must include:

25
26 (A) Recommendations for court orders and the reasons for those
27 recommendations;

28
29 (B) A description of the efforts made to achieve legal permanence for the
30 child if reunification efforts fail; ~~and~~

31
32 (C) A factual discussion of each item listed in sections 366.1 and
33 366.21(c); and

34
35 (D) A factual discussion of the information required by section 16002(b).
36

37 (2) – (3) ***

38
39 (d) – (e) ***

40
41 (f) **Educational and developmental-services needs (§§ 361, 366, 366.1, 366.3)**

42
43 The court must consider the educational and developmental-services needs of each
44 child and nonminor or nonminor dependent youth, including whether it is necessary

1 to limit the rights of the parent or legal guardian to make educational or
2 developmental-services decisions for the child ~~or youth~~. If the court limits those
3 rights or, in the case of a nonminor or nonminor dependent ~~youth~~ who has chosen
4 not to make educational or developmental-services decisions for him- or herself or
5 has been deemed incompetent, finds that appointment would be in the best interests
6 of the ~~youth~~ nonminor or nonminor dependent, the court must appoint a responsible
7 adult as the educational rights holder as defined in rule 5.502. Any limitation on the
8 rights of a parent or guardian to make educational or developmental-services
9 decisions for the child ~~or youth~~ must be specified in the court order. The court must
10 follow the procedures in rules 5.649–5.651.

11
12 **(g) Case plan (§§ 16001.9, 16501.1)**

13
14 The court must consider the case plan submitted for the hearing and must
15 determine:

16
17 (1) Whether the child ~~or youth~~ was actively involved, as age- and
18 developmentally appropriate, in the development of his or her own case plan
19 and plan for permanent placement. If the court finds that the child ~~or youth~~
20 was not appropriately involved, the court must order the agency to actively
21 involve the child ~~or youth~~ in the development of his or her own case plan and
22 plan for permanent placement, unless the court finds that the child is unable,
23 unavailable, or unwilling to participate.

24
25 (2) – (3)

26
27 (4) For a child ~~or youth~~ 12 years of age or older in a permanent placement,
28 whether the child was given the opportunity to review the case plan, sign it,
29 and receive a copy. If the court finds that the child ~~or youth~~ was not given
30 this opportunity, the court must order the agency to give the child the
31 opportunity to review the case plan, sign it, and receive a copy.

32
33 **(h) – (i)**

34
35 **(j) Sibling findings; additional findings (§ 366)**

36
37 (1) The court must determine whether the child has other siblings under the
38 court's jurisdiction. If so, the court must make the additional determinations
39 required by section 366(a)(1)(D); and

40
41 (2) The court must enter any additional findings as required by section 366 and
42 section 16002.

1 (k) – (m) ***

2
3 (n) **Requirements on setting a section 366.26 hearing (§§ 366.21, 366.22, 366.25)**

4
5 The court must make the following orders and determinations when setting a
6 hearing under section 366.26:

7
8 (1) The court must terminate reunification services to the parent or legal guardian
9 and:

10
11 (A) Order that the social worker provide a copy of the child’s birth
12 certificate to the caregiver as consistent with sections 16010.4(e)(5) and
13 16010.5(b)–(c); and

14
15 (B) Order that the social worker provide a child ~~or youth~~ 16 years of age or
16 older with a copy of his or her birth certificate unless the court finds
17 that provision of the birth certificate would be inappropriate.

18
19 (2) – (6) ***

20
21 (o) ***

22
23
24 **Rule 5.810. Reviews, hearings, and permanency planning**

25
26 (a) **Six-month status review hearings (§§ 727.2, 11404.1)**

27
28 For any ward removed from the custody of his or her parent or guardian under
29 section 726 and placed in a home under section 727, the court must conduct a status
30 review hearing no less frequently than once every six months from the date the
31 ward entered foster care. The court may consider the hearing at which the initial
32 order for placement is made as the first status review hearing.

33
34 (1) – (2) ***

35
36 (3) *Findings and orders (§ 727.2(e))*

37
38 The court must consider the safety of the ward and make findings and orders
39 that determine the following:

40
41 (A) – (E) ***

- 1 (F) In the case of a child ~~or youth~~ who is 16 years of age or older, the
2 services needed to assist the child ~~or youth~~ in making the transition
3 from foster care to independent living;
4
5 (G) Whether the child ~~or youth~~ was actively involved, as age- and
6 developmentally appropriate, in the development of his or her own case
7 plan and plan for permanent placement. If the court finds that the child
8 ~~or youth~~ was not appropriately involved, the court must order the
9 probation department to actively involve the child ~~or youth~~ in the
10 development of his or her own case plan and plan for permanent
11 placement, unless the court finds that the child ~~or youth~~ is unable,
12 unavailable, or unwilling to participate; ~~and~~
13
14 (H) Whether each parent was actively involved in the development of the
15 case plan and plan for permanent placement. If the court finds that any
16 parent was not actively involved, the court must order the probation
17 department to actively involve that parent in the development of the
18 case plan and plan for permanent placement, unless the court finds that
19 the parent is unable, unavailable, or unwilling to participate; and
20
21 (I) If sibling interaction has been suspended and will continue to be
22 suspended, that sibling interaction is contrary to the safety or well-
23 being of either child.
24
25

26 (4) ***

27
28
29 **(b) Permanency planning hearings (§§ 727.2, 727.3, 11404.1)**
30

31 A permanency planning hearing for any ward who has been removed from the
32 custody of a parent or guardian and not returned at a previous review hearing must
33 be held within 12 months of the date the ward entered foster care as defined in
34 section 727.4(d)(4). ~~and periodically thereafter, but no less frequently than once~~
35 ~~every 12 months while the ward remains in placement.~~ However, when no
36 reunification services are offered to the parents or guardians under section 727.2(b),
37 the first permanency planning hearing must occur within 30 days of disposition.
38

39 (1) ***

40
41 (2) *Findings and orders (§§ 727.2(e), 727.3(a))*
42

1 At each permanency planning hearing, the court must consider the safety of
2 the ward and make findings and orders regarding the following:

3
4 (A)– (C) ***

5
6 (D) The permanent plan for the child ~~or youth~~, as described in (3);

7
8 (E) Whether the child ~~or youth~~ was actively involved, as age- and
9 developmentally appropriate, in the development of his or her own case
10 plan and plan for permanent placement. If the court finds that the child
11 ~~or youth~~ was not appropriately involved, the court must order the
12 probation officer to actively involve the child ~~or youth~~ in the
13 development of his or her own case plan and plan for permanent
14 placement, unless the court finds that the child ~~or youth~~ is unable,
15 unavailable, or unwilling to participate; and

16
17 (F) Whether each parent was actively involved in the development of the
18 case plan and plan for permanent placement. If the court finds that any
19 parent was not actively involved, the court must order the probation
20 department to actively involve that parent in the development of the
21 case plan and plan for permanent placement, unless the court finds that
22 the parent is unable, unavailable, or unwilling to participate; and

23
24 (G) If sibling interaction has been suspended and will continue to be
25 suspended, that sibling interaction is contrary to the safety or well-
26 being of either child.

27
28 (3) *Selection of a permanent plan (§ 727.3(b))*

29
30 At the first permanency planning hearing, the court must select a permanent
31 plan. At subsequent permanency planning hearings which can be held under
32 section 727.2(g), the court must either make a finding that the current
33 permanent plan is appropriate or select a different permanent plan, including
34 returning the child home, if appropriate. The court must choose from one of
35 the following permanent plans, which are, in order of priority:

36
37 (A) ***

38
39 (B) A permanent plan of return of the child to the physical custody of the
40 parent or guardian, after 6 additional months of reunification services.
41 The court may not order this plan unless the court finds that there is a
42 substantial probability that the child will be able to return home within

1 18 months of the date of initial removal or that reasonable services
2 have not been provided to the parent or guardian,

3
4 (C)– (F) ***

5
6 (4) ***

7
8 **(c) Postpermanency status review hearings (§ 727.2)**

9
10 A postpermanency status review hearing must be conducted for wards in placement
11 no less frequently than once every six months.

12
13 (1) *Consideration of reports (§ 727.2(d))*

14
15 The court must review and consider the social study report and updated case
16 plan submitted for this hearing by the probation officer and the report
17 submitted by any CASA volunteer, and any other reports filed with the court
18 under section 727.2(d).

19
20 (2) *Findings and orders (§ 727.2(g))*

21
22 At each postpermanency status review hearing, the court must consider the
23 safety of the ward and make findings and orders regarding the following:

24
25 (A) Whether the current permanent plan continues to be appropriate. If not,
26 the court must select a different permanent plan, including returning the
27 child home, if appropriate. ~~The court must not order the permanent~~
28 ~~plan of returning home after 6 more months of reunification services, as~~
29 ~~described in (b)(3)(B), unless it has been 18 months or less since the~~
30 ~~date the child was removed from home;~~

31
32 (B) The continuing necessity for and appropriateness of the placement;

33
34 (C) The extent of the probation department's compliance with the case plan
35 in making reasonable efforts to complete whatever steps are necessary
36 to finalize the permanent plan for the child; ~~and~~

37
38 (D) Whether the child ~~or youth~~ was actively involved, as age- and
39 developmentally appropriate, in the development of his or her own case
40 plan and plan for permanent placement. If the court finds that the child
41 ~~or youth~~ was not appropriately involved, the court must order the
42 probation department to actively involve the child ~~or youth~~ in the
43 development of his or her own case plan and plan for permanent

1 placement, unless the court finds that the child ~~or youth~~ is unable,
2 unavailable, or unwilling to participate; and

3
4 (E) If sibling interaction has been suspended and will continue to be
5 suspended, that sibling interaction is contrary to the safety or well-
6 being of either child.

7
8
9 **(d) Notice of hearings; service; contents (§ 727.4)**

10
11 No earlier than 30 nor later than 15 calendar days before each hearing date, the
12 probation officer must serve written notice on all persons entitled to notice under
13 section 727.4, as well as the current caregiver, any CASA volunteer or educational
14 rights holder, and all counsel of record. A *Notice of Hearing—Juvenile*
15 *Delinquency Proceeding* (form JV-625) must be used.

16
17 **(e) Report (§§ 706.5, 706.6, 727.2(c), 727.3(a)(1), 727.4(b), 16002)**

18
19 Before each hearing described above, the probation officer must investigate and
20 prepare a social study report that must include an updated case plan and all of the
21 information required in sections 706.5, 706.6, 727.2, ~~and~~ 727.3 and 16002.

- 22
23 (1) The report must contain recommendations for court findings and orders and
24 must document the evidentiary basis for those recommendations.
25
26 (2) At least 10 calendar days before each hearing, the ~~petitioner~~ probation officer
27 must file the report and provide copies of the report to the ward, the parent or
28 guardian, all attorneys of record, and any CASA volunteer.

29
30 **(f) ~~Hearing by administrative panel (§§ 727.2(h), 727.4(d)(7))~~**

31
32 ~~The status review hearings described in (a) and (c) may be conducted by an~~
33 ~~administrative review panel, provided:~~

- 34
35 (1) ~~The ward, parent or guardian, and all those entitled to notice under section~~
36 ~~727.4 may attend;~~
37
38 (2) ~~Proper notice is provided;~~
39
40 (3) ~~The panel has been appointed by the presiding judge of the juvenile court and~~
41 ~~includes at least one person who is not responsible for the case management~~
42 ~~of, or delivery of service to, the ward or the parent or guardian; and~~
43

1
2
3
4

~~(4) The panel makes findings as required by (a)(3) or (c)(2) above and submits them to the juvenile court for approval and inclusion in the court record.~~

Draft

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Juvenile Law: Sealing of Records

Action Requested

Review and submit comments by June 17, 2015

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 5.840; amend rule 5.830; adopt forms JV-595, JV-595-INFO, and JV-596; revise forms JV-590 and JV-600

Proposed Effective Date

January 1, 2016

Contact

Tracy Kenny, 916-263-2838
tracy.kenny@jud.ca.gov

Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Executive Summary and Origin

Assembly Bill 1006 (Yamada; Stats. 2013, ch. 269) directed the Judicial Council to develop informational materials and a form to enable a former ward or individual for whom a petition was filed under Welfare and Institutions Code section 602, or any individual who had contact with a probation department under section 626, to petition the court for the sealing and destruction of juvenile records under section 781 and rule 5.830.¹ Section 781(g) provides that each county probation department and court must ensure that record-sealing information and a form petition are provided to eligible youth. It also instructs that the sealing information and the form petition “shall be provided . . . when jurisdiction is terminated or when the case is dismissed.” After the council circulated a proposal for comment to implement these requirements, new legislation (Sen. Bill 1038 [Leno]; Stats. 2014, ch. 249) was enacted that requires the court to automatically dismiss and seal the records for many juvenile wards. The Family and Juvenile Law Advisory Committee proposes new and amended rules and forms to implement the provisions of these two recently enacted statutes.

Prior Circulation

The provisions of this proposal that would implement AB 1006 were circulated for comment in spring 2014. Before the council could act on that proposal, SB 1038 was enacted, significantly

¹ All further statutory references are to the Welfare and Institutions Code, unless otherwise specified.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

changing the law on the sealing of juvenile records. Given this change in the law, committee members opted to defer action on the proposal until they could modify it to incorporate the changes made by SB 1038 and circulate a comprehensive package of rules and forms to implement new law on juvenile record sealing.

The Proposal

This proposal recommends adoption of one mandatory information form, *How to Make Your Juvenile Records Private* (form JV-595-INFO), and one optional petition form, *Request to Seal Juvenile Records* (form JV-595), to implement AB 1006 while incorporating the recent changes made by SB 1038 into the information form. A new optional order form, *Dismissal and Sealing of Records—Welfare and Institutions Code Section 786* (form JV-596), is recommended for approval, as well as a new rule of court, rule 5.840, to implement the new mandatory sealing requirements created by SB 1038. In addition, rule 5.830 would be amended to reflect the directives of AB 1006: the petition and information form would be referred to within the rule, and the distribution requirements would also be specified. Additionally, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781* (form JV-590) would be revised from a mandatory form to an optional form to provide courts with the flexibility to develop an order that reflects local agency and court practices when sealing records based on a petition. Finally, *Juvenile Wardship Petition* (form JV-600) would be revised to include a notice alerting minors about record sealing at an earlier phase of the proceedings.

Section 781 enables eligible individuals to petition the juvenile court to have juvenile records sealed under certain circumstances specified within the code. The records eligible for sealing include contacts with the juvenile justice system, law enforcement, the Department of Motor Vehicles, and other agencies. These contacts include juvenile court records resulting from formal adjudications under section 602 of the code and informal contacts with probation and law enforcement under sections 601 and 626 of the code. To qualify for sealing, among other requirements, the records must not fall within section 707(b) of the code if committed by an individual 14 years of age or older, the offense must not have led to a conviction in adult court under section 707.1, and the petitioner must not have been convicted of a felony or misdemeanor involving moral turpitude as an adult. In addition, the court must find that the petitioner has been satisfactorily rehabilitated.

Newly enacted section 786 provides an alternate procedure for the sealing of records for non-707(b) matters by requiring the juvenile court to dismiss a petition and seal the records pertaining to that petition for any minor who satisfactorily completes an informal probation supervision program under section 654.2, probation under section 725, or a term of probation for any other offense not listed in section 707(b). This newly enacted section went into effect on January 1, 2015, and will thus be applied to matters dismissed after that date, which will result in the sealing of many more records in this manner as opposed to in response to a petition filed under section 781. Only those cases dismissed before January 1, 2015, or those cases in which the court does not find that the minor has satisfactorily completed his or her probation will be required to follow the procedures for section 781.

Propose new form JV-595-Info

Previously, no statutory directives mandated that the court and probation “shall ensure” that eligible individuals are informed of available record-sealing options. The newly revised code directs that the informational materials and optional form must be provided by the court or probation to eligible individuals when jurisdiction is terminated or the case is dismissed. Proposed new mandatory *How to Make Your Juvenile Records Private* (form JV-595-INFO) includes information on the benefits and limitations of record sealing. It is intended to use plain language and a user-friendly format to explain the process required for record sealing, with the goal of increasing the likelihood that the optional form JV-595, *Request to Seal Juvenile Records*, is completed accurately so that courts can properly seal all appropriate juvenile records. It also emphasizes that only eligible records included on the form and known to the court will be sealed. This emphasis reinforces that probation will not be taxed with investigation requirements and reduces the burden on the court and probation by clarifying that the responsibility of identifying agencies where records may be found rests with the petitioner.

The form also explains that when a probation case is closed, the probation officer will provide the petitioner with a list of the petitioner’s known contacts housed with the juvenile justice system and other agencies. This information will assist the petitioner in filling out form JV-595 as completely as possible. Because many minors with juvenile records will now have their records sealed by the court as a matter of law when their cases are dismissed, the form also provides information on those cases that are eligible for this sealing, as well as information on automatic sealing for cases with a deferred entry of judgment order under section 790. Such cases are sealed if the minor satisfactorily completes the program assigned during the period that the judgment has been deferred.

Propose new form JV-595

Proposed new optional *Request to Seal Juvenile Records* (form JV-595) is intended to provide the petitioner with a simple but optional method to request sealing. It directs the petitioner to include all known contacts with law enforcement; probation; group homes, camps, and foster care agencies; schools; the Department of Motor Vehicles; and other agencies. It also instructs the petitioner to include contacts in all counties, as provided by amended rule 5.830, which states: “The order must apply in the county of the court hearing the petition and in all other counties in which eligible juvenile records are identified by the petitioner on the petition.”² Section 781(a) directs the court to “send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records.” Some courts have interpreted the requirement to be limited to in-county agencies. By ensuring that the form instructs that *all* identified agencies must be provided with the order, this misinterpretation will be resolved and form JV-590, *Order to Seal Juvenile*

² Clarification about proposed changes to the rule is provided in the section of this invitation to comment specific to the rule.

Records—Welfare and Institutions Code Section 781, will be used more consistently and comprehensively.

Propose new form JV-596

To provide the courts with a means to accomplish its new responsibility to seal records after dismissing a petition, as required by section 786, this proposal recommends approval of a new optional order form for this purpose. This form is very similar to the order form used to seal the records of minors who successfully complete a section 790 deferred entry of judgment program. Although section 786 directs the court to seal “all records pertaining to that dismissed petition in the custody of the juvenile court,” the committee has interpreted this language to be consistent with other juvenile record–sealing statutes and to include all records relating to the petition—whether in the custody of the court or another agency. The committee has adopted this view based on the implementation of very similar language in section 793 relating to the sealing of deferred entry of judgment records for which the rule of court and the form provide for sealing of all records, and not simply those held by the juvenile court.³

This reading is consistent with the underlying purpose of juvenile record sealing, which is to improve employment and educational opportunities for youth with a juvenile justice record. If the court records were sealed, but criminal history databases continued to include information about the underlying arrest and disposition, this objective would not be comprehensively accomplished. Moreover, it would require two separate sealing processes for many minors, one when the case was dismissed and another under section 781 to seal the remainder of the records. And were the court to act on these subsequent petitions, it would have no access to its own records because they would have been sealed via the earlier process.

The committee concluded that its understanding of section 786 was consistent with the section’s intent but that implementation of these new requirements will pose challenges because the juvenile justice system at large, the courts, probation, and other agencies will not have access to information on what services and programs a minor has previously received if a new petition is filed subsequent to the filing of an earlier petition.⁴

Revise form JV-590 by making it an optional form

Order to Seal Juvenile Records—Welfare and Institutions Code Section 781 (form JV-590) is currently a mandatory form. To provide courts with maximum flexibility to issue record-sealing orders that reflect the individual court’s needs, practices, and local agencies, the committee proposes that form JV-590 be revised from mandatory to optional. This change would provide flexibility from county to county, with the optional form available if needed. In addition, the

³ Section 793 provides that when the case is dismissed, “any records in the possession of the juvenile court” must be sealed.

⁴ Because the committee is aware that the Legislature may be considering revisions to section 786 to address and clarify these issues, it has used statutory references rather than express language in the proposed form and rule so that modifications to the statute will not require changes to the form and rule.

committee proposes adding room on the form for the court to specify the date that these records should be destroyed or to indicate that they not be destroyed per the court's order or statutory requirements.

Revise form JV-600

The committee also proposes revising *Juvenile Wardship Petition* (form JV-600) to include a directive informing youth about the option of record sealing and identifying form JV-595-INFO, *How to Make Your Juvenile Records Private*, as a source of information. This proposed revision will serve two purposes: it will (1) alert minors about record sealing at an earlier phase of the juvenile court proceedings, and (2) provide a supplementary way to reach those minors who may be named in a petition but have limited contact with probation.

Amend rule 5.830

Proposed changes to rule 5.830 involve incorporating references to forms JV-595-INFO, JV-595, and JV-590 and defining the roles of the court and probation department in ensuring that the forms are provided as required. The rule would also direct probation to provide the petitioner with a list of the petitioner's known contacts housed with the juvenile justice system at the time that the case is closed, which would assist the petitioner in filling out the petition as completely as possible.

In its current form, rule 5.830 has not been interpreted consistently with regard to its description of the records that must be sealed in other counties when the court's record-sealing order is issued. The rule specifies that the sealing order "must apply in the county of the court hearing the petition and in all other counties in which there are juvenile records concerning the petitioner." The committee recommends that the word *eligible* be inserted before the word *juvenile* to clarify that only those records that can be legally sealed are covered by the order. The committee also proposes adding an advisory comment that provides general context on the purpose of record sealing and addresses the scope and overall specifications of the act of record sealing.

Propose new rule 5.840

The proposal recommends adoption of a new rule of court to implement the sealing requirements of section 786. The rule would result in the sealing of all records related to eligible petitions dismissed by the court and would direct the clerk of the court to distribute the order to all named agencies and direct those agencies to immediately seal their records. It also includes the access exceptions allowed by section 786, but as with the proposed order form described above, it does not specify the exceptions but rather references the statute so that any future modification to section 786 will not result in the need for changes to the rule. In addition, the rule directs the court to seal all records and not just those in its custody for the reasons discussed above with reference to proposed new form JV-596.

Alternatives Considered

With the passage of Assembly Bill 1006, the Legislature directed the Judicial Council to develop informational materials and a form petition to ensure that eligible individuals are adequately informed about the option of sealing their records and provided with a form to assist them in petitioning the court. Consideration was given to how the informational materials could be most effectively presented and in what format. The committee determined that an information form, available on the court website, would be more likely to reach the target audience and remain relevant than a less formal handout, which might, over time, be forgotten. In addition, making the information form mandatory would raise its relevance by increasing awareness and encouraging compliance. The committee, to further increase the likelihood for the form to reach its target audience and to provide information at an earlier phase of the proceedings, determined that adding a notice about record sealing to the *Juvenile Wardship Petition* (form JV-600) would be beneficial.

Consideration was also given to whether rule 5.830 needed to be revised. Ensuring consistency and clarifying the new requirements are the clear benefits of revising the rule as proposed.

Request to Seal Juvenile Records, form JV-595, was created as required by the Legislature but is proposed as an optional form to allow petitioners to submit a request to seal in whatever manner they prefer. Although the form provides a convenient method of petitioning the court, mandating its use may delay applications and run contrary to the intent of Assembly Bill 1006. Similarly, revising form JV-590, *Order to Seal Juvenile Records—Welfare and Institutions Code Section 781*, from a mandatory form to an optional form will lead to more flexibility in implementation for the courts.

Although the new legislation's target population is primarily youth described by sections 602 and 626 of the Welfare and Institutions Code, consideration was given to whether efforts should be made to reach youth described by section 781(d)—specifically, those youth who are arrested and dealt with informally by law enforcement. Although reaching these youth would clearly be beneficial, the legislation does not provide an avenue to accomplish this goal, and efforts to reach those individuals not described in section 781(g) would be burdensome to the court and probation.

Implementation of SB 1038 does not expressly require the council to take any action, but the committee deemed it necessary at a minimum to ensure that the information provided to those seeking to seal their records reflected the current state of the law. In addition, because SB 1038 significantly modifies current practices in juvenile court by requiring courts to dismiss and seal many of the petitions that will come before them going forward, the committee deemed it best to create an optional form and a simple and straightforward rule of court to assist courts in implementing these new requirements as efficiently as possible. The committee considered modifying existing rules and forms, but given that this method of sealing will likely become the most common sealing procedure and given its sufficient distinctions from existing sealing

processes, the committee concluded that new forms would ultimately be more useful to the courts.

Implementation Requirements, Costs, and Operational Impacts

Courts will be required to produce paper copies of the information form and petition as required by AB 1006. Some courts may incur programming charges if electronic systems are used for the court order. However, the committee believes that full implementation of this proposal may aid court operations and reduce probation department costs by providing youth with a listing of relevant records at case closing and by streamlining the process in a single county. Although this effort may result in additional time to send notices of record sealing, it should also reduce or eliminate the need for the youth to file requests in multiple counties or to inspect court files to determine which records to request for sealing.

Implementation of SB 1038 will require courts to generate and disseminate many new sealing orders as required by the legislation. The optional order form will assist courts in carrying out this function, and the rule will clarify the basic procedures required to accomplish the new requirements.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose of ensuring that up-to-date information regarding the eligibility for and the procedures to obtain or request sealing and destruction of records is provided to each person for whom a petition has been filed on or after January 1, 2015, to adjudge the person a ward of the juvenile court, and to specified other minors who are taken into temporary custody and brought before a probation officer under Welfare and Institutions Code section 626?
- Do you agree that the JV-595 petition form should be optional so that juveniles who may choose to submit a petition on a self-created application or local form are able to do so?
- Is the addition of the information about the date of destruction useful, or would it impose an additional workload burden for courts or probation to research and calculate these dates? Would this be overcome if the form was fillable and included a calculation based on the rules that apply to 602 files (in 602 cases, the rule that applies would be five years for noncourt records and age 38 for court records, so a formula could be used in a fillable form, but for 601 and 300 records, the rule is five years for both)?
- Does the information on federal requirements for disclosing sealed records on form JV-585 and JV-595-INFO provide petitioners with accurate and helpful information about when it may be necessary to report juvenile adjudications even when the records have been sealed?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Do you agree that all of the sealing order forms be optional forms so that courts have the flexibility to use the form that best meets their needs?

Attachments and Links

1. Proposed Cal. Rules of Court, rules 5.830 and 5.840, at pages 9–11
2. Proposed new and revised forms JV-590, JV-595, JV-595-INFO, JV-596, and JV-600, at pages 12–19
3. Assembly Bill 1066,
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1006
4. Senate Bill 1038
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1038

Rule 5.830 of the California Rules of Court would be amended, effective January 1, 2016, to read:

1 **Rule 5.830. Sealing records**

2
3 **(a) Sealing records—former wards (§ 781)**

4
5 (1) A former ward of the court may apply to petition the court to order juvenile
6 records sealed. Determinations under section 781 must be made by the court
7 in the county in which wardship was last terminated.

8
9 (2) At the time jurisdiction is terminated or the case is dismissed, the court must
10 provide, or instruct the probation department to provide, form JV-595-INFO,
11 How to Make Your Juvenile Records Private, and form JV-595, Request to
12 Seal Juvenile Records, to the ward.

13
14 (3) At the time wardship is terminated or the case is dismissed, the probation
15 department must provide the ward with a list of every agency or person that
16 the probation department knows has a record of the ward’s case, including
17 the date of each offense, case number(s), and the date when the case was
18 closed. Probation does not need to provide this list if the record is being
19 sealed automatically under section 786.

20
21 ~~(1)~~(4) Application—submission

22
23 (A) The application for a petition to seal records must be submitted to the
24 probation department in the county in which wardship was last
25 terminated.

26
27 (B) The application for a petition to seal juvenile records may be submitted
28 on form JV-595, Request to Seal Juvenile Records, or on another form
29 that includes all required information.

30
31 ~~(2)~~(5) * * *

32
33 ~~(3)~~(6) * * *

34
35 ~~(4)~~(7) If the petition is granted, the court must order the sealing of all records
36 described in section 781 using form JV-590, Order to Seal Juvenile
37 Records—Welfare and Institutions Code Section 781, or a similar form. The
38 order must apply in the county of the court hearing the petition and in all
39 other counties in which ~~there are~~ eligible juvenile records ~~concerning the~~
40 ~~petitioner~~ are identified by the petitioner on the petition.

1 (b) **Sealing—nonwards**

2
3 (1) * * *

4 (2) When jurisdiction is terminated or the case is closed, the probation
5 department must provide the following to individuals described under section
6 781(g)(1)(A) and (B):

7
8 (A) Form JV-595-INFO, *How to Make Your Juvenile Records Private*;

9
10 (B) Form JV-595, *Request to Seal Juvenile Records*; and

11
12 (C) A list of cases of every agency or person that the probation department
13 knows has a record of the ward’s case, including the date of each
14 offense, case number(s), and the date when the case was closed.
15 Probation does not need to provide this list if the record is being sealed
16 automatically under section 786.

17
18 (c)–(e) * * *

19
20 **Advisory Committee Comment**

21
22 This rule is intended to describe the legal process by which a person may apply to petition the
23 juvenile court to order the sealing—that is, the prohibition of public access and inspection—of
24 the records related to specified cases in the custody of the juvenile court, the probation
25 department, and other agencies and public officials. This rule establishes minimum legal
26 standards, but does not prescribe procedures for the management of physical or electronic records
27 or methods for preventing public inspection of the records at issue. These procedures remain
28 subject to local discretion. Procedures may, but are not required to, include the actual sealing of
29 physical records or files. Other permissible methods of sealing records pending their destruction
30 under section 781(d) include, but are not limited to, storing sealed records separately from
31 publicly accessible records, placing sealed records in a folder or sleeve of a color different from
32 that in which publicly accessible records are kept, assigning a distinctive file number extension to
33 sealed records, or designating them with a special stamp.

Rule 5.840 of the California Rules of Court would be adopted, effective January 1, 2016, to read:

1 **Rule 5.840. Dismissal of petition and sealing of records (section 786)**

2
3 **(a) Applicability**

4
5 This rule states the procedures to dismiss and seal the records of minors who are
6 subject to section 786, including all minors who have satisfactorily completed an
7 informal program of supervision under section 654.2, probation under section 725,
8 or a term of probation for any offense not listed in subdivision (b) of section 707
9 and whose cases are dismissed on or after January 1, 2015.

10
11 **(b) Dismissal of petition**

12
13 If the court finds that a minor subject to this rule has satisfactorily completed his or
14 her informal or formal probation supervision, the court must order the petition
15 dismissed.

16
17 **(c) Sealing of records**

18
19 If the court dismisses the petition, it must also order sealed all records pertaining to
20 that dismissed petition using form JV-596, *Dismissal and Sealing of Records—*
21 *Welfare and Institutions Code Section 786*, or a similar form. The prosecuting
22 attorney, the probation officer, and the court shall have access to these records as
23 specifically provided in section 786.

24
25 **(d) Destruction of records**

26
27 All records sealed must be destroyed according to section 781(d).

28
29 **(e) Distribution of order**

30
31 The clerk of the issuing court must:

- 32
33 (1) Send a copy of the order to each agency and official listed in the order; and
34
35 (2) Send a certified copy of the order to the clerk in each county in which a
36 record is ordered sealed.

37
38 **(f) Deadline for sealing**

39
40 Each agency, individual, and official notified must immediately seal all records as
41 ordered.

42

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
ORDER TO SEAL JUVENILE RECORDS — WELFARE AND INSTITUTIONS CODE SECTION 781	CASE NUMBER:

1. Name of petitioner (specify aliases): _____ Date of birth: _____
2. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
3. The court has read and considered the petition and the report of the probation officer.
4. The petition is
 a. Granted. _____ b. Denied.

THE COURT ORDERS

5. a. The sealing of petitioner's juvenile records in the custody of this court and the courts, agencies, and officials named below (designate county):
 See attachment (5) for additional names.
 b. All records sealed shall be destroyed according to Welfare and Institutions Code sections 389(c) and 781(d).
 c. **Date court records must be destroyed:** _____
 d. **Court records must be retained** _____
 for good cause. _____
 records pertain to a person adjudged delinquent for an offense listed in section 707(b) when 14 years of age or older.
 e. **Date all other records must be destroyed:** _____
6. Petitioner is relieved from the registration requirements under Penal Code section 290, and the registration information in the custody of the Department of Justice and other agencies and officials listed above shall be destroyed.
7. The clerk shall send a certified copy of this order to the clerk in each county in which a record is ordered sealed and a copy to each agency and official listed above.

Date: _____ _____
 JUDICIAL OFFICER OF THE SUPERIOR COURT

CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

[SEAL]

Date: _____ Clerk, by _____, Deputy

Probation stamps date when form is received.

**DRAFT
NOT APPROVED
BY THE JUDICIAL
COUNCIL**

This form can be used to petition the juvenile court to seal your juvenile records if you meet the requirements of Welfare and Institutions Code section 781. More information about sealing is available on form JV-595-INFO, *How to Make Your Juvenile Records Private*.

On page two of this form, include all the officials and agencies you came in contact with when you were under the age of 18, including law enforcement, probation, the Department of Motor Vehicles, and the district attorney's office. Include agencies in EVERY county. Submit this form to the probation department in the county where you were last on juvenile probation or, if you were not on probation, in any county where you had contact with law enforcement or probation that did not result in a court case. Once the probation department receives the completed form, it will have 90 days to file a record-sealing petition with the court for you, or 180 days if you include agencies outside of this county.

Fill in court name and street address:

Superior Court of California, County of

Fill in your name:

Name:

Fill in case number, if known:

Case Number:

- ① My information:
 - a. Name: _____
 - b. AKA (*nickname, or other name I've used*): _____
 - c. Address: _____
 - d. City, state, zip code: _____
 - e. Area code and telephone number: _____
 - f. Date of birth: _____
 - g. E-mail address: _____

- ② I had a case(s) that went to court.
Case file number(s): _____ The date my case(s) was closed: _____
- I do not remember my case file number or the date my case was closed.

- ③ I had contact with law enforcement but did not go to court.
 - Date(s) I had contact with law enforcement: _____
 - Name(s) of law enforcement or other agency(ies): _____

- ④ I understand that the probation department is responsible for requesting the juvenile court to seal the records of only those agencies listed on page 2 of this form. I understand that after I file this document and pay any fees that are required, the probation department will have 90 days to conduct an investigation and file a record-sealing petition for me with the juvenile court, or 180 days if I am requesting that information in more than one county be sealed. I also understand that some records may not be eligible for sealing. I am aware that form JV-595-INFO, *How to Make Your Juvenile Records Private*, provides more information on this process. I also understand that the federal government will not recognize sealing of records and that juvenile records must be reported, even though sealed, if I apply for enlistment in the armed services or other federal employment requiring disclosure of juvenile records.



Case Number:

Your name: _____

Note: Your probation officer provided you with a list of contacts with law enforcement when your case closed. That document should make filling out this form easier for you because it includes the contacts that probation is aware of from your juvenile records. The best way to ensure that all your juvenile records are sealed is for you to list all contacts on this form or attach a copy of the list of contacts probation provided to you. Include cases and contacts in both the county where you are filing this petition and any other county where you had contact with law enforcement and other agencies. If contacts in other counties are not included on this form, those juvenile records may not be sealed, and you may need to file again in the county where the record is located.

5 Include all contacts (with addresses) you had with the agencies listed below in every county, before your 18th birthday:

- Court Clerk: _____
- Probation Department: _____
- Sheriff's Department: _____
- District Attorney: _____
- Police Department: _____
- Department of Motor Vehicles: _____
- Homeland Security: _____

6 I declare that the information on this form is true and correct to the best of my knowledge.

Date: _____

Type or print your name

▲

Sign your name

JV-595-INFO How to Make Your Juvenile Records Private

If you did something wrong when you were under 18, the justice system, your school(s), and/or DMV may have records about what you did. If you make those records **private** (sealed), it could be easier for you to:

- Find a job.
- Get a driver's license.
- Get a loan.
- Rent an apartment.
- Go to college.

In many cases the court will automatically seal your records.

If your case is dismissed by the juvenile court **after January 1, 2015**, because you satisfactorily completed your probation and were NOT found to have committed an offense listed in Welfare and Institutions Code section 707(b) (these are violent offenses such as killing, raping, or kidnapping, and also some offenses involving drugs or weapons), you do not need to ask the court to seal your records because the court will do it automatically. If the court finds that you have *not* satisfactorily completed your probation, it may not dismiss your case and will *not* seal your records automatically. If you want to have your records sealed in this situation, you will need to ask the court to seal your records (see instructions later on this form).

If your probation supervision was under “deferred entry of judgment” under Welfare and Institutions Code sections 790 to 795 and you did what you were supposed to do during the time of that agreement, the court had to order your records sealed when it dismissed your case. If you did not complete the agreement adequately and the court entered judgment against you, you will need to ask the court to seal your records by filing a petition.

If you have more than one juvenile case or contact and are unsure which records were sealed automatically, ask your attorney or probation officer.

Who qualifies to ask the court to seal their juvenile records?

If the court has not automatically sealed your records, you can ask the court to make that order. You qualify if:

- You are at least **18**; or
- It has been at least five years since your case was closed, or your last contact with probation; and
- You have been rehabilitated to the satisfaction of the court.

When do you *not* qualify to seal your records?

- If you were convicted as an adult of an offense involving moral turpitude, such as:
 - A sex or serious drug crime.
 - Murder or other violent crime.
 - Forgery, welfare fraud, or other crime of dishonesty.
 or
- When you were 14 or older and the court found that you committed a serious offense listed in Welfare and Institutions Code section 707(b), such as murder, arson, rape, or other violent crime, as well as some offenses involving drugs or weapons, unless the court has dismissed that petition.

Who can see your sealed records?

- DMV can see your vehicle and traffic records and share them with insurance companies.
- The federal government (and the military) can see your sealed records if you apply for a federal job or enlist.
- The court may see your records if you are a witness or involved in a defamation case.
- If you apply for benefits as a nonminor dependent, the court may see your records.
- If your records were sealed automatically, the prosecutor and others can look at your record to determine if you are eligible to participate in a deferred entry of judgment program (diversion).
- You can request the court to unseal your records if you want to have access to them or allow someone else to inspect them.

How do you ask to have your records sealed?

- ① You must fill out a court form. Form JV-595, *Request to Seal Juvenile Records*, at www.courts.ca.gov/forms.htm, can be used, or your court may have a local form.



- ② At the end of your case, your probation officer will provide you with a list of every agency or person the probation department knows has a record of your case, as well as a list of any prior contacts with law enforcement, probation, or the courts.
- ③ Write the names of all agencies from your contacts list on your form and attach it to the form. Also list any other agency that might have records on you, such as:
 - Juvenile court,
 - Probation,
 - Police or sheriff,
 - District attorney's office, and
 - Department of Motor Vehicles.If you think you might have contacts that are not on that form, you can get your criminal history record from the Department of Justice. See <http://oag.ca.gov/fingerprints/security> for more information.
- ④ Take your completed form to the probation department where you were *last* on probation. (If you were not on probation, take your form to any county probation office where you have a juvenile record.) *Note:* a small number of counties require you to take your form to the court. More information on each county's specific requirements can be found at the website listed at the end of this form.
- ⑤ You may have to pay a fee. If you cannot afford the fee, ask the probation department or the court about a fee waiver.
- ⑥ Probation will review your form and submit it to the court within **90 days** (or **180 days**, if you have records in two or more counties).
- ⑦ The court will review your application. The court may decide right away to seal your juvenile records. Or the court may order a hearing. If there is a hearing, you will receive a notice in the mail with the date and time of the hearing. If the notice says your hearing is "unopposed" (meaning there is no disagreement with your request), you may choose not to go.

- ⑧ If you qualify to have your juvenile records sealed, the court will make an order to seal the eligible records listed on your application.
Important! The court can seal only records it knows about. Make sure you list all the records from all counties where you have any records.
- ⑨ The court will order each agency on your list to seal your records. The court will also order the records destroyed by a certain date.
- ⑩ The court will mail you a copy of its order. Be sure to keep it in a safe place.

What about sex offender registration?

(Penal Code, § 290)

If the court seals a record that required you to register as a sex offender, the order will say you do **not** have to continue to register.

If your records are sealed, do you have to report the offenses in the sealed records on job, school, or other applications?

No. Once your records are sealed, the law treats those offenses as if they did not occur. **However**, the military and some federal agencies will not recognize sealing of records and will require you to report all juvenile records, even if sealed, if you are seeking to enlist or apply for a job requiring you to provide information about your juvenile records.

Questions?

If you are not sure if you qualify to seal your records or if you have other questions, talk to a lawyer. The court is not allowed to give you legal advice. More information on sealing your records can be found at www.courts.ca.gov/28120.htm.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h2 style="margin: 0;">Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
DISMISSAL AND SEALING OF RECORDS— WELFARE AND INSTITUTIONS CODE SECTION 786	CASE NUMBER:

1. Name of subject child: _____ Date of birth: _____
2. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (*name*): _____
3. The court has read and considered the report of the probation officer and any other evidence presented or information provided.

THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS:

4. The child has complied satisfactorily with the conditions imposed.
5. The petition filed on (*date*): _____ is dismissed.
6. The child's juvenile records related to the arrest on (*date*): _____ regarding an alleged violation of (*specify offense*): _____ in the custody of this court and of the courts, agencies, and officials listed below are ordered sealed:

- District Attorney (*specify county*):
- Child's Attorney (*name*):
- Probation Dept. (*specify county*):
- California Dept. of Justice
- Other (*specify*):

- Attachment

7. All records pertaining to the dismissed petition are to be destroyed according to Welfare and Institutions Code section 781(d), and the arrest is deemed never to have occurred except that the prosecuting attorney, the probation officer, and the court may access these records for the specific purpose stated in Welfare and Institutions Code section 786.

Date court records must be destroyed:

Court records must be retained:

- For good cause
- Records pertain to a person adjudged delinquent for an offense listed in section 707(b) when 14 years of age or older

Date all other records must be destroyed:

Date:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	<h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 10px 0 0 0;">Not approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
CASE NAME: _____	
JUVENILE WARDSHIP PETITION <input type="checkbox"/> § 601(a) <input type="checkbox"/> § 601(b) <input type="checkbox"/> § 602(a)	CASE NUMBER: _____

1. Petitioner on information and belief alleges the following:

a. <input type="checkbox"/> The child named below comes within the jurisdiction of the juvenile court under the following sections of the Welfare and Institutions Code (check applicable boxes; see attachments for concise statements of facts): <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a) Violation (specify code section): _____			
b. <input type="checkbox"/> Under a previous order of this court, dated _____, the child was declared a ward under Welfare and Institutions Code section <input type="checkbox"/> 601(a) <input type="checkbox"/> 601(b) <input type="checkbox"/> 602(a).			
c. Child's name and address: _____	d. Age: _____	e. Date of birth: _____	f. Sex: _____
g. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	h. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged		
i. Name: _____ Address: _____ <input type="checkbox"/> mother <input type="checkbox"/> father <input type="checkbox"/> guardian <input type="checkbox"/> unknown If mother or father (check all that apply): <input type="checkbox"/> legal <input type="checkbox"/> biological <input type="checkbox"/> presumed <input type="checkbox"/> alleged	j. Other (state name, address, and relationship to child): <input type="checkbox"/> No known parent or guardian resides within this state. This adult relative lives in this county or is closest to this court.		
k. Attorney for child (if known): Address: _____ Phone number: _____	l. Child is <input type="checkbox"/> not detained <input type="checkbox"/> detained. Date and time of detention (custody): _____ Current place of detention (address): _____		

(See important notices on page 2.)

Blue Ribbon Commission on Children in Foster Care (BRC) **Recommendations**

Annual Agenda Item:

Blue Ribbon Commission on Children in Foster Care (BRC) recommendations.

Review and consider for action, when resources become available, the BRC recommendations related to court reform that have been ongoing, but have not yet been fully implemented because of significant budget challenges. Those recommendations broadly include:

1. Reducing caseloads for judicial officers, attorneys, and social workers;
2. Ensuring a voice in court and meaningful hearings for participants;
3. Ensuring adequately trained and resourced attorneys, social workers, and Court Appointed Special Advocates (CASA);
4. Establish and monitor data exchange standards and information between the courts and child welfare agencies and those to be monitored by the Judicial Council Technology Committee, in consultation with the Family and Juvenile Advisory Committee, develop technical and operational administration standards for interfacing court case management systems and state justice partner information systems.

Background:

Establish and monitor data exchange standards.

The California Department of Social Services (CDSS) is developing the solicitation for the new version of the statewide child welfare case management system (presently called CWS/CMS). Designing a child welfare system that includes real time data exchanges with court case management systems is a goal of CDSS and a recommendation of the Blue Ribbon Commission.

To establish data exchange standards, both CDSS and Center for Families, Children & the Courts staff will participate in the Judicial Council's new Data Exchange Workstream. The workstream is a project of the Court Technology Advisory Committee and is overseen by the Judicial Council Technology Committee. It is led by David Yamasaki, court executive officer of Santa Clara Superior Court. The first meetings of the workstream were held January 26th and February 2nd and were attended by CDSS. Objectives of the workstream, presented at the first meetings, include:

- Determine governance model for managing the use, ongoing support, addition, or modification of data exchanges.
- Identify any existing interfaces that can be reused or modified for broader use.
- Prioritized list of possible data exchanges for initial development or leverage from existing work.
- Documented business requirements for each exchange:
 - Security level required.
 - Court operational requirements.
 - Functional and technical specifications.
- Model and architecture for each exchange.
- Library of completed and tested initial data exchanges with documentation.

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- Model and architecture for each exchange.
- Library of completed and tested initial data exchanges with documentation.

Juvenile Law: Title IVE Waiver Demonstration Projects

Background:

Since July 2007, two counties in California, Los Angeles and Alameda, have operated child welfare services under a federal title IV-E waiver. Title IV-E funds are allocated to the state based on the actual board and care costs of eligible children in out-of-home care. These funds cannot be used to provide direct services for children, youth, and families. Under a waiver, a state/county program can receive these funds as an allocation which can be used to support direct services that have the outcome of reducing the number of children entering foster care and the time spent in out-of-home care.

An evaluation was conducted of the first phase of the IV-E waiver project. According to the California Department of Social Services

Evaluation findings suggest that the use of flexible funding under the CAP facilitated the participating counties' pursuit of expanded programs and improved outcomes for children and families. In addition, both child welfare and probation in each county operated within their capped allocations and were successful in reducing the number of children and youth entering foster care. (Source: California Title IV-E Demonstration Project Extension Proposal, March 28 2013.
http://www.childsworld.ca.gov/res/pdf/Title_IV-EWaiverExtensionProposal.pdf)

In September 2014, the federal government approved a five-year extension and expansion of the project, for seven additional counties through September 30, 2019. The project is now called the California Well Being Project. The seven additional counties are Butte, Lake, Sacramento, San Diego, San Francisco, Santa Clara and Sonoma.

The Project will focus on two components across participating counties:

- Prevention: Wraparound for probation youth exhibiting delinquency risk factors that put them at risk of entering foster care.
- Family Centered Practice: Safety Organized Practice to further implement and enhance the Core Practice Model for child welfare.

More information on the project is contained in the attached newsletters from CDSS.

TITLE IV-E CALIFORNIA WELL-BEING PROJECT

January 2015



SERVING CHILDREN AND FAMILIES

Our project is now in full swing! The California Well-Being Project enables the opportunity to improve the lives of children, youth and families through a collaboration that will support and promote:

- Safety;
- Stability;
- Education;
- Mental Health, and;
- The Over-All Well Being of Our Children and Families.

The California Department of Social Services (CDSS) is providing pertinent Technical Assistance (TA), recent activities included:

- Hosting a webinar addressing claiming procedures, Wraparound activities, eligibility criteria, and the Quarterly Fiscal Supplemental Form requirement;
- Visiting participating counties, addressing individual questions regarding billing codes and claiming procedures.

COUNTY CORNER

Our county partners are hard at work in their quest to improve the lives of fellow Californians:

"On October 28, 2014, Sacramento County Child Protective Services (CPS) and Probation Department hosted a community meeting with representatives from agencies serving children, youth and families in the county. The meeting included a presentation on the goals of the waiver as well as the initiatives to be implemented locally by Probation and CPS. The presentation also touched upon fiscal issues, including how savings will be generated. Community representatives asked questions and provided suggestions on how to utilize savings to achieve better outcomes for children and families. Feedback from community representatives was overwhelmingly positive. The County is developing a communications plan to keep the community engaged in the planning process and apprised of issues related to the reinvestment of savings."

Alicia Blanco, Program Planner
Sacramento County Child Protective Services



COMMUNICATION, PLANNING, AND COORDINATION

The California Well-Being Project requires communication within all partnering agencies and organizations, determining goals, establishing a plan and coordinating efforts.

We have taken the following steps:

- Held a CDSS Employee convening, informing and introducing the project objective, goals, methodology and project team members to various interdepartmental bureaus;
- Provided County Plan guidelines and templates to all Demonstration counties;
- Received and reviewed county Project Plans including *Interventions* that will be implemented by Probation and Social Services departments;
- Scheduled and conducted on-going monthly individual TA calls to support our county partners;
- Supported our Chief Probation Officers of California partners with their telephone conferences;
- Held a convening with Demonstration counties and discussed the Evaluation component for our project;
- On-Going communication and collaboration with the University of California, Davis and Casey Family Programs organization on refining the Safety Organized Practice model;
- And much more to come!

DEMONSTRATION DICTIONARY

What is an Intervention?

An *Intervention* is a discrete program or practice focusing on the needs of children, youth, and families, that supports a set of short and long-term outcomes.



EVALUATION IS ESSENTIAL

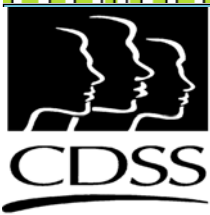
Program evaluation is a key component of the California Well-Being Project. This process will gauge the relationship between the project, service delivery methods, and outcomes for our children and families. Our process involves:

- Posting a Request For Proposal;
- Selecting the evaluator;
- Developing the contract deliverables;
- Overseeing evaluation activities
- Developing an evaluation plan with the evaluator.

We will introduce our evaluator soon!

MEETING OUR FEDERAL PARTNER'S EXPECTATIONS

Our federal partner, the U.S. Department of Health and Human Services, Administration of Children, Youth and Families has received our Initial Design and Implementation Report (IDIR) a required document that will serve as a tool in implementing the Title IV-E California Well-Being Project. The IDIR promotes thoughtful and strategic planning for successful implementation.



CDSS WELL-BEING PROJECT CONTACT INFORMATION

California Department of Social Services
744 P Street, MS8-11-86
Sacramento, CA 95814
(916) 651-6600

TITLE IV-E CALIFORNIA WELL-BEING PROJECT

OCTOBER 2014



ACTIVITIES UNDER THE PROJECT

The Project will focus on two components across all participating counties, which are explained in more detail on the next page:

- ❖ **Prevention:** Wraparound for probation youth exhibiting delinquency risk factors that put them at risk of entering foster care.
- ❖ **Family Centered Practice:** Safety Organized Practice to further implement and enhance the Core Practice Model for child welfare.

PROJECT GOALS AND OBJECTIVES

The California Well-Being Project provides California with the flexibility to invest existing resources more effectively in proven and innovative approaches that better ensure the safety of children and the success of families. This flexibility enables the opportunity to reinvest resources into more cost efficient approaches that achieve better outcomes.

The Project, which will operate in the following counties: Alameda, Butte, Lake, Los Angeles, Sacramento, San Diego, San Francisco, Santa Clara, and Sonoma, has the following goals:

- ❖ Improve the array of services and supports available to children and families involved in the child welfare and juvenile probation systems;
- ❖ Engage families through a more individualized casework approach that emphasizes family involvement;
- ❖ Increase child safety without an over-reliance on out-of-home care;
- ❖ Improve permanency outcomes and timelines;
- ❖ Improve child and family well-being; and
- ❖ Decrease recidivism and delinquency for youth on probation.

The target population includes children and youth aged 0-17, inclusive, who currently are in out-of-home placement or who are at risk of entering or re-entering foster care.

EVALUATION OF THE PROJECT

The State will conduct an evaluation of the Project to determine whether and how the Project's funding flexibility affects county child welfare and youth probation systems, and to measure the Project's success in meeting its stated goals for improved safety, permanency, and well-being outcomes for children. The evaluation will consist of three components: A process evaluation, an outcome evaluation, and a cost analysis.

DURATION OF THE PROJECT

California's Project began on July 1, 2007 with Alameda and Los Angeles counties, and has continued under three short-term bridge extensions through September 30, 2014.

On September 29, 2014, the federal government approved a five-year extension and expansion of the Project, for seven additional counties through September 30, 2019.

FISCAL METHODOLOGY OF THE PROJECT EXTENSION

California's Project has a two-cohort track:

- ❖ Cohort 1 consists of Alameda and Los Angeles Counties, and will retain its existing financial base, a three-year average of 2003-2005.
- ❖ Cohort 2 will include the seven new counties, with a base year period established as the five-year average of 2008-2012.

Both cohorts have a growth factor based on the actual California Necessities Index for each year.

If the state experiences significant unanticipated increases in either payments to families or administrative costs that exceed the growth rate that are unrelated to the implementation of the Project (e.g., stemming from federal, state or county policy changes, court orders, or other external factors), ACF may consider an adjustment to the base allocation.

Certain foster care costs incurred by participating counties are excluded from the Project, and will be paid outside of the Project's capped federal allocation, including:

- ❖ Any allowable title IV-E claims from counties not participating in the demonstration project
- ❖ Any allowable SACWIS (CWS/CMS) development or operational costs
- ❖ Any allowable title IV-E foster care licensing activities and 50% training
- ❖ Any allowable staff, provider, or professional partner training costs
- ❖ All eligible youth who are at least age 18 but have not yet attained the age of 21 (Extended Foster Care)
- ❖ Any allowable adoptions costs including Adoptions Assistance Payments

PROJECT-WIDE INTERVENTIONS

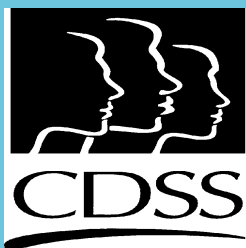
Safety Organized Practice (SOP) / Core Practice Model (CPM)

Specific elements of SOP include family engagement and assessment, behaviorally based case planning, transition planning, ongoing monitoring, and case plan adaptation as appropriate. Specific services to be implemented as part of SOP include Safety Mapping/Networks, effective safety planning at foster care entry and exit, Capturing the Children's Voice, solution-focused interviewing, motivational interviewing, and case teaming.

Wraparound

The Wraparound model will involve a family-centered, strengths-based, needs-driven planning process for creating individualized services and supports for the youth and family. Specific elements of the Wraparound model will include case teaming, family and youth engagement, individualized strength-based case planning, and transition planning.

In addition to the Project-wide interventions above, each county may implement additional child welfare and probation interventions, at local discretion.



CDSS WELL-BEING PROJECT CONTACT INFORMATION

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Sacramento, CA 95814
(916) 651-6600
IV-EWaiver@dss.ca.gov