



JUDICIAL COUNCIL
OF CALIFORNIA

JUDICIAL BRANCH BUDGET
COMMITTEE

JUDICIAL BRANCH BUDGET COMMITTEE

MATERIALS FOR JULY 18, 2018

Meeting Contents

Agenda	1
Minutes	
Draft Minutes from the April 17, 2018 Meeting	3
Draft Minutes from the May 23, 2018 Meeting	6
Discussion and Possible Action Items	
Item 1 – Budget Change Proposal for Court Reporters (Action Required)	8
Item 2 – Fees for Telephone Appearance Services (Action Required)	9
Closed Session	
Item 1 – Innovations Grant Program (<i>Cal. Rules of Court, Rule 10.75(d)(9)</i>)	



JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH BUDGET
COMMITTEE

www.courts.ca.gov/jbbc.htm
JBBC@jud.ca.gov

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JUDICIAL BRANCH BUDGET COMMITTEE

NOTICE AND AGENDA OF OPEN IN-PERSON MEETING WITH CLOSED SESSION

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

OPEN PORTION OF THIS MEETING IS BEING RECORDED

Date:	July 18, 2018
Time:	10:30 a.m. – 12:00 p.m.
Location:	455 Golden Gate Avenue, San Francisco, CA, 94102, Redwood
Public Call-In Number:	Room 1-877-820-7831; passcode 6677064 (Listen Only)

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

Members of the public seeking to make an audio recording of the open meeting portion of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to JBBC@jud.ca.gov.

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

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

Call to Order and Roll Call

Approval of Minutes

Approve minutes of the April 17, 2018 and May 23, 2018, Judicial Branch Budget Committee meetings.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1)-(2))

In-Person Public Comment

Members of the public requesting to speak during the public comment portion of the meeting must place the speaker's name, the name of the organization that the speaker represents if any, and the agenda item that the public comment will address, on the public comment sign-up sheet. The sign-up sheet will be available at the meeting location at least 30 minutes prior to the meeting start time. The Chair will establish speaking limits at the beginning of the public comment session. While the advisory body welcomes and

encourages public comment, time may not permit all persons requesting to speak to be heard at this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to JBBC@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102 attention: Lucy Fogarty. Only written comments received by 10:30 a.m. on July 17, 2018 will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-2)

Item 1

Budget Change Proposal for Court Reporters (Action Required)

Consideration of submitting a budget change proposal for court reporters for 2019-20.

Presenter(s)/Facilitator(s): Hon. David M. Rubin, Chair

Item 2

Fees for Telephone Appearance Services (Action Required)

Consideration of formation of an ad hoc subcommittee to address issues related to fees for telephone appearance services.

Presenter(s)/Facilitator(s): Mr. Patrick O'Donnell, Principal Managing Attorney
Judicial Council Legal Services

IV. ADJOURNMENT

Adjourn to Closed Session

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

Item 1

Innovations Grant Program (Cal. Rules of Court, Rule 10.75(d)(9))

Discussion regarding the innovations grant program.

Presenter(s)/Facilitator(s): Ms. Maureen Dumas, Principal Manager, Special Projects
Ms. Marcela Eggleton, Supervisor, Special Projects

Adjourn Closed Session



JUDICIAL COUNCIL OF CALIFORNIA

JUDICIAL BRANCH BUDGET COMMITTEE

JUDICIAL BRANCH BUDGET COMMITTEE

MINUTES OF OPEN MEETING

April 17, 2018

10:00 am to 3:00 pm

Redwood Room, San Francisco

Advisory Body Members Present:

Hon. David M. Rubin (Chair), Hon. James M. Humes, (Vice-Chair), Hon. Marla O. Anderson (phone), Hon. Kyle S. Brodie, Hon. Patricia M. Lucas, Ms. Kimberly Flener (phone), Mr. Michael M. Roddy, and Ms. Audra Ibarra.

Advisory Body Members Absent:

Hon. Gary Nadler.

Others Present:

Hon. Marsha G. Slough (phone), Mr. Rob Oyung (phone), Mr. John Wordlaw, Mr. Zlatko Theodorovic, Ms. Lucy Fogarty, Ms. Angela Guzman, Ms. Brandy Sanborn, Mr. Don Will, Ms. Bonnie Hough, Ms. Jamel Jones, and Mr. Ed Ellestad.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 10:06 am, and roll was taken. No public comments were received.

DISCUSSION AND POSSIBLE ACTION ITEMS

Item 1

2019-20 Initial Funding Requests (Action Required)

Review of 2019-20 Initial Funding Requests.

Presenter(s)/Facilitator(s): Hon. David M. Rubin, Chair

Action: The Judicial Branch Budget Committee approved the following 2019-20 IFRs for development into budget change proposal concepts:

IFR-19-01	Appellate Court Judicial Workload (combine with IFR -19-28)
IFR-19-04	Appellate Court Facility Maintenance Program
IFR-19-05	Judicial Branch Litigation Management Program

IFR-19-06	Continuing the Implementation of the <i>Strategic Plan for Language Access in the California Courts</i>
IFR-19-10	Digitizing Documents Phase One for the Superior and Appellate Courts
IFR-19-14	Case Management System (CMS) Replacement for Trial Courts – Phase III Request
IFR-19-18	Expansion of Self-Help Funding and Establishment of the Center for Self Help Resources Recommended by the Chief Justice’s Commission on the Future of the California Courts
IFR-19-20	Implementation of Phoenix Roadmap – Cloud Migration , Technical Upgrade and Functional Improvements (combine with IFR-19-21)
IFR-19-21	Phoenix HR Payroll Deployments (combine with IFR-19-20)
IFR-19-22	Trial Court Facility Maintenance and Operations
IFR-19-23	Statewide Security Systems and Equipment - Maintenance and Replacement
IFR-19-26	Stabilization of Civil Assessment Revenue
IFR-19-27	Support for Trial Court Operations
IFR-19-28	Funding for 10 of the 50 Judgeships Authorized by AB 159 (combine with IFR-19-01)
Added by JBBC	Placeholder - Civil Adjudication of Minor Traffic Infraction - Futures Commission Recommendation-Placeholder
Added by JBBC	Placeholder - Pretrial Detention Reform
Added by JBBC	Placeholder - Proposition 66 - Death Penalty Reform and Savings Act of 2016

In addition, the following IFRs have been approved to be developed into budget change proposal concepts for consideration by advisory bodies identified in the IFR (time permitting), however, these will be auxiliary submissions.

IFR-19-02	Appellate Court Appointed Counsel Projects
IFR-19-07	Habeas Corpus Resource Center Case Team Staffing
IFR-19-19	Court Appointed Counsel in Juvenile Dependency Proceedings

Finally one request was approved to be developed into budget change proposal concepts for consideration by advisory bodies identified in the IFR (time permitting), with the contingency that it will not be submitted if the funding for this request currently included in the budget remains intact.

IFR-19-17	Court Appointed Special Advocates (CASA) in Juvenile Dependency Court
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INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Info 1

Language Access Plan Implementation and the Court Interpreters Program

Overview of the Language Access Plan Implementation and the Court Interpreters Program.

Presenter(s)/Facilitator(s): Hon. Mariano-Florentino Cuéllar, Justice, Supreme Court of California; Bob Lowney, Director, Judicial Council Court Operations Services

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:06 pm.

Approved by the advisory body on enter date.



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JUDICIAL BRANCH BUDGET COMMITTEE

www.courts.ca.gov/jbbc.htm
JBBC@jud.ca.gov

JUDICIAL BRANCH BUDGET COMMITTEE

MINUTES OF OPEN MEETING

May 23, 2018

1:00 pm to 3:00 pm

Redwood Room, San Francisco

Advisory Body Members Present:

Hon. David M. Rubin (Chair), Hon. James M. Humes, (Vice-Chair), Hon. Marla O. Anderson, Hon. Kyle S. Brodie, Hon. Patricia M. Lucas, Hon. Gary Nadler, Ms. Kimberly Flener, Mr. Michael M. Roddy, and Ms. Audra Ibarra.

Advisory Body Members Absent:

Others Present:

Hon. Marsha G. Slough, Mr. Rob Oyung, Mr. John Wordlaw, Mr. Zlatko Theodorovic, Ms. Lucy Fogarty, Ms. Angela Guzman, Ms. Brandy Sanborn, Ms. Bonnie Hough, Ms. Mimi Morris, Mr. Mark Dusman, Ms. Marcela Eggleton, Ms. Olivia Lawrence, Mr. Bob Lowney, Ms. Deborah Collier-Tucker, Mr. Eric Schnurpfeil, and Mr. Ed Ellestad.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 1:09 am, and roll was taken. No public comments were received.

DISCUSSION AND POSSIBLE ACTION ITEMS

Item 1

2019-20 Budget Change Proposal Concepts (Action Required)

Review of 2019-20 Budget Change Proposal Concepts.

Presenter(s)/Facilitator(s): Hon. David M. Rubin, Chair

Action: The Judicial Branch Budget Committee approved the following 2019-20 budget change proposal concepts:

Priority #	Description
1	Case Management System (CMS) Replacement for Trial Courts – Phase III Request
2	Implementation of Phoenix Roadmap – Cloud Migration, Technical Upgrade and Functional Improvements and Phoenix HR Payroll Deployments

3	Funding for 10 of the 50 Judgeships Authorized by AB 159 and Appellate Court Judicial Workload (additional 2 Justices)
4	Trial Court Facility Maintenance and Operations
5	Using Business Intelligence and Data Analytics (BI/DA) to Transform the Enterprise/Deploy an Identity Management solution for the Judicial Branch
6	Civil Adjudication of Minor Traffic Infractions - Futures Commission Recommendation/ Fund Shift of Civil Assessment Revenues
7	Statewide Security Systems and Equipment - Maintenance and Replacement
8	Digitizing Documents Phase One for the Superior and Appellate Courts
9	Increasing Energy Efficiency in the Judicial Branch
10	Judicial Branch Litigation Management Program
11	Appellate Court Facility Maintenance Program
12	Appellate Court Security
13	Trial Court Capital Outlay Plan
14	Futures Commission Directives for the Expansion of Technology in the Courts
15	Continuing the Implementation of the <i>Strategic Plan for Language Access in the California Courts</i>

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:06 pm.

Approved by the advisory body on enter date.

JUDICIAL COUNCIL OF CALIFORNIA
BUDGET SERVICES
Report to the Judicial Branch Budget Committee
(Action Item)



Title: Budget Change Proposal for Court Reporters
Date: 7/18/2018
Contact: Lucy Fogarty, Deputy Director, Budget Services
415-865-7587 | lucy.fogarty@jud.ca.gov

Issue

The Supreme Court opinion in *Jameson v. Desta* released on July 5, 2018 holds that where a court has given notice that it will not provide reporters in a civil courtroom, with the parties instead being able to provide and pay for their own court reporter to act as official reporter pro tem, courts must, on request, provide a reporter for litigants with fee waivers.

There are budget implications for the trial courts resulting from this decision as the court reporters will be provided at the courts' expense.

Background

The Judicial Branch Budget Committee is making a recommendation to the Judicial Council on July 19-20, 2018 regarding 2019-20 budget change proposals (BCP) for the Judicial Branch. As the *James v. Desta* opinion will go into effect within the next few weeks, the trial courts will start to see immediate fiscal impacts of the opinion.

BCPs are due to the California State Department of Finance during the first week of September. Any proposal not approved by the Judicial Council in July, will either have to be submitted as a spring Finance Letter or will have to wait until the 2020-21 BCP process.

Recommendation

It is recommended that the Judicial Branch Budget Committee:

1. Include a BCP for court reporters in their list of priorities for 2019-20.
2. Determine at what priority level the BCP should be.
3. Direct Judicial Council staff to develop a detailed rationale and cost estimate for this BCP.

This recommendation will be considered by the Judicial Council during their business meeting on July 19-20, 2018.



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

LEGAL SERVICES OFFICE

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MEMORANDUM

Date	Action Requested
July 8, 2018	Formation of Ad Hoc Subcommittee to Address Issues Relating to Fees for Telephone Appearance Services
To	Deadline
Judicial Branch Budget Committee	July 18, 2018 (meeting)
Hon. David M. Rubin, Chair	Contact
From	Patrick O'Donnell, 415-865-7665
Judicial Council staff	patrick.o'donnell@jud.ca.gov
Deborah Brown, Chief Counsel	
Patrick O'Donnell, Principal Managing Attorney, Legal Services	
Zlatko Theodorovic, Director and Chief Financial Officer	
Lucy Fogarty, Deputy Director Budget Services	
Subject	
Telephone Appearance Services Master Agreement: Action on Referral of Fee Issues to the Judicial Branch Budget Committee	

Executive Summary

On June 21, 2018, the Executive and Planning Committee referred various fee issues relating to the 2018–2022 statewide master agreement for telephone appearance services to the Judicial Branch Budget Committee (JBBC) for its consideration and possible action. Legal Services and Budget Services staff recommend that the JBBC form an ad hoc subcommittee to consider the fee issues and report back to JBBC on its recommendations.

Recommendation

Legal Services and Budget Services staff recommend that the JBBC form an ad hoc subcommittee to consider the issues referred to it on June 21, 2018 by the Executive and Planning Committee relating to fees for telephone appearance services under the 2018–2022 statewide master agreement, including:

1. Whether any increase in the telephone appearance fee (currently \$86 per call) should be recommended to the Judicial Council during the next four-year term of the master agreement;
2. If any increase in the fee is recommended, what should be the amount of the increase; and
3. Whether any legislative changes should be considered and recommended to update or improve the statutory framework that authorizes the fees charged under a master agreement for telephone appearance services in the trial courts.

The subcommittee would be authorized to seek input on these fee-related questions from stakeholders and staff, develop possible rule and legislative proposals, and submit its findings to the JBBC which could, if it considers the subcommittee’s proposals appropriate, make recommendations to the Judicial Council.

Background

Master Agreements for telephone appearance services. The Judicial Council is required by statute to enter into a master agreement or master agreements for the provision of telephone appearance services. Senate Bill 857 (Stats. 2010, ch. 720), enacted in 2010, provides that “[o]n or before July 1, 2011, and periodically thereafter as appropriate, the Judicial Council shall enter into one or more master agreements with a vendor or vendors to provide for telephone appearances in civil cases under Section 367.5 of the Code of Civil Procedure or as otherwise authorized by law.” (Gov. Code, § 72010(a).) Based on the statute, the Judicial Council initially entered into two master agreements, effective July 1, 2011, for the provision of telephone appearance services—one of which was with CourtCall. The CourtCall master agreement was subsequently amended effective July 1, 2013, for a five-year term that ended on June 30, 2018.

Because the existing master agreement for telephone appearance services with CourtCall was set to expire on June 30, 2018, a Request For Proposals (RFP) was issued for the provision of these services on January 30, 2018. On March 26, a master agreement was awarded to CourtCall to provide these services for a four-year term commencing on July 1, 2018. The master agreement was finalized in June 2018. There were, however, issues relating to the fees for telephone appearance services that it was not possible to resolve before July 1, 2018 when the new master agreement became effective.

Fee issues: possible amendments to rule 3.670(k).

One set of issues that it was not possible resolve and that remains to be addressed is whether there should be any increase in the basic telephone appearance fee during the four-year term of the new master agreement. The statutes on telephone appearances authorize fees. SB 857 included a section on fees stating: “On or before July 1, 2011, the Judicial Council shall establish statewide, uniform fees to be paid by a party for appearing by telephone, which shall supersede any fees paid to vendors and courts under any previously existing agreements and procedures. The fees to be paid for telephone appearances shall include. . . [a] fee for providing the telephone appearance service pursuant to a timely request to the vendor or court.”¹ (Code Civ. Proc., § 367.6(a).)

Rule 3.670 of the California Rules of Court is the rule adopted by the council concerning telephone appearances in the trial courts. Based on the authority granted to the council by statute, the Judicial Council in 2011 amended rule 3.670 to establish a uniform telephone appearance fee of \$78.² Two years later, when the master agreement with CourtCall was amended, the council further amended the rule to increase the telephone appearance fee from \$78 to its current amount of \$86, of which \$66 goes to CourtCall and \$20 to the Trial Court Trust Fund (TCTF).³ Under the current fee structure, any court providing direct telephone appearances also charges an appearance fee of \$86, of which it receives \$66 and transmits \$20 to the TCTF.

CourtCall has requested an increase in the current telephone appearance fee from \$86 to \$96. Any change in the amount of this fee would require the amendment by the Judicial Council of rule 3.670(k). Only the Judicial Council can adopt or amend a rule. The council will consider a change to a rule proposed by “an internal committee, an advisory committee, a task force, or Judicial Council staff.” (Cal. Rules of Court, rule 10.20(b).)

The Judicial Branch Budget Committee (JBBC) is legally and practically an appropriate body to consider the issue of whether there should be an increase in the fee for telephone appearance services and any related fee issues. It has the authority to recommend a fee change to the council and has previously considered various other financial matters to be recommended to the council, such as budget change proposals and innovations grant awards. Although the consideration of

¹ The statute also provides for a late fee and a cancellation fee. The existing fees in those areas are not at issue and will remain unchanged under the new master agreement.

² Judicial Council of Cal., staff rep., *Telephone Appearances: Fees and Revenues* (June 20, 2011), www.courts.ca.gov/documents/20110624item9.pdf.

³ Judicial Council of Cal., staff rep., *Telephone Appearances: Amendment of the Fee Amount* (June 21, 2013), www.courts.ca.gov/documents/jc-20130628-itemA3.pdf.

whether the council should change the telephone appearance fee is a new role for the JBBC, it would be consistent with the internal committee's charge and previous activities.

To assist the JBBC in reviewing a possible rule change authorizing fee increase, staff recommends that an ad hoc subcommittee be formed. This subcommittee would have the flexibility to seek input from staff and stakeholders about any fee change. For instance, it could reach out to advisory committees such as the Court Executives Advisory Committee, the Trial Court Budget Advisory Committee, and the Civil and Small Claims Advisory Committee. These committees have members with a knowledge of, and an interest in, the subject of telephone appearance fees. Based on this input and other information, the subcommittee would be able to consider various alternatives, determine if any fee increase is appropriate, and if so, in what amount.

Fee issues: possible legislation

In addition to the question of whether to recommend that the Council amend rule 3.670(k) to change the \$86 telephone appearance, there are issues whether the statutory framework for telephone appearances requires any changes. This framework was created in 2010. Since that time, Government Code section 72011 has resulted in the remission of over \$48 million to the TCTF by CourtCall. Nonetheless, circumstances are changing. These changes may justify updating some of the fee statutes.⁴ The possible changes might be both substantive and technical.

Again, the formation of an ad hoc subcommittee appears to be an appropriate means to address possible legislative changes. The subcommittee would be able to draw on information from various sources, be flexible, and make recommendations to be reported back to the full JBBC for a decision and action.

Links

1. Code of Civil Procedure, § 367.6:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=367.6.&lawCode=CCP

2. Gov. Code, § 72010:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=72010.&lawCode=GOV

3. Gov. Code, § 72011:

http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=72011.&lawCode=GOV

4. Cal. Rules of Court, rule 3.670:

http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_670

⁴ Links to the principal statutes relating to telephone appearances are provided below.