



JUDICIAL COUNCIL OF CALIFORNIA

2860 Gateway Oaks Drive, Suite 400 • Sacramento, California 95833-4336

Telephone 916-263-7885 • Fax 916-263-1966 • TDD 415-865-4272

MEMORANDUM

Date October 17, 2019	Action Requested Please Review
To Judicial Council Technology Committee	Deadline October 21, 2019
From Andrea L. Jaramillo, Attorney Legal Services, Judicial Council	Contact Andrea L. Jaramillo 916-263-0991 phone andrea.jaramillo@jud.ca.gov
Subject Proposed Amendment to 2019 ITAC Annual Agenda to Participate in a Joint Ad Hoc Subcommittee to Work on Legislative and Rule Proposals for Remote Video Appearances	

Background

In 2017, Chief Justice Tani G. Cantil-Sakauye directed the Information Technology Advisory Committee (ITAC) to “consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings.” (Chief Justice Tani G. Cantil-Sakauye, mem. to Justice Douglas P. Miller, et al., “Addressing the recommendations of the Commission on the Future of California’s Court System,” May 17, 2017). To that end, ITAC formed the Remote Video Appearances Workstream, which analyzed the current state of video and digital appearances in California, and presented its final report to ITAC in August 2019. In its final report, the workstream made several policy recommendations including amending the Code of Civil Procedure and California Rules of Court. The workstream recommended that amendments to the California Rules of Court should be done in cooperation with appropriate advisory committees. ITAC approved several of the workstream’s

recommendations at its August 2019 meeting. The workstream will present its findings and recommendations for the Judicial Council Technology Committee's (JCTC) consideration at JCTC's November 2019 meeting.

On October 4, 2019 ITAC recommended amending its 2019 annual agenda to participate in a joint ad hoc subcommittee with the Civil and Small Claims, Family and Juvenile Law, and Probate and Mental Health Advisory Committees to work on legislation and rules for remote video appearances in civil proceedings. ITAC also recommended that the joint ad hoc subcommittee work cooperatively with the Digital Evidence Workstream when appropriate.¹

Recommendation

Approve an amendment to the ITAC 2019 annual agenda to authorize it to participate in a joint ad hoc subcommittee to develop legislation and rules for remote video appearances in civil proceedings.

The Civil and Small Claims, Family and Juvenile Law, and Probate and Mental Health Advisory Committees have agreed to include this work on their annual agendas. The Rules and Projects Committee (RUPRO) will consider those committees' annual agendas in late October 2019.

If JCTC approves the recommended amendment, ITAC staff will begin working with ITAC and the other committees to identify subcommittee membership, and staff will also begin developing materials for the subcommittee. If approved, staff anticipate the project will last through 2021.

Rationale

The timing of JCTC action will align with RUPRO action. As such, all committees involved can timely begin the work of forming the joint ad hoc subcommittee without delay and consistent with the council's rulemaking schedule. ITAC staff will be in attendance at the November JCTC meeting when the detailed Remote Video Appearances Workstream final report is presented for JCTC's consideration. Any guidance, direction, or other feedback from JCTC on the policy findings and recommendations would be conveyed to the joint ad hoc subcommittee.

The joint ad hoc subcommittee approach has worked effectively in the past when ITAC has worked in conjunction with other committees. Most recently, ITAC took this approach with the joint ad hoc subcommittee on remote access, which was made up of members from nine total

¹ The overall scope of the Digital Evidence Workstream is broader than civil proceedings and remote video appearances. Therefore, there will be matters, such as criminal proceedings, where it would not make sense for the workstream and joint ad hoc subcommittee to work together.

committees. Using a joint ad hoc subcommittee ensures multiple subcommittees do not need to meet and coordinate on the same topic or try and resolve differing recommendations. At present, the proposed joint ad hoc subcommittee would still seek formal approvals through the four advisory committees whose members comprise it. However, this may be revised in the future to more streamline the process once the membership of the subcommittee is established.

JCTC's Task

- Decide whether to approve the recommended amendment to the 2019 ITAC annual agenda to authorize ITAC to participate in a joint ad hoc subcommittee to develop rules and legislation for remote video appearances in civil proceedings; or
- Decide on an alternative.

Attachments

1. Recommended amendment to the 2019 ITAC annual agenda, page 4.
2. Memorandum from Chief Justice Tani G. Cantil-Sakauye to Justice Douglas P. Miller, et al., May 2017, pages 5–7.

One-Time Project (Ending 2021)	
Remote Video Appearances in Civil Proceedings	<i>Priority 2¹</i>
<p><i>Project Summary:</i> Develop legislative and rule proposals to further the recommendations of the Commission on the Future of California’s Court System (Futures Commission) relating to video remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings (pursuant to directive to ITAC from the Chief Justice).</p> <p><i>Key Objectives:</i></p> <ul style="list-style-type: none"> (a) Building on the recommendations of the Futures Commission and ITAC Remote Video Appearances Workstream, participate in a joint ad hoc subcommittee with Civil and Small Claims, Family and Juvenile Law, and Probate and Mental Health Advisory Committees to develop legislative and rule proposals to allow video remote appearances in most civil court proceedings. (b) Work cooperatively with the ITAC Digital Evidence Workstream, when needed. <p><i>Origin of Project:</i> In April 2017, the Futures Commission recommended allowing remote video appearances at trials and evidentiary hearings in civil matters. In May 2017, the Chief Justice directed ITAC to consider feasibility and resource requirements for implementing pilot projects for remote video appearances. ITAC formed the Remote Video Appearances Workstream for this purpose, which issued its final report and recommendations to ITAC, including policy recommendations in August 2019.</p> <p><i>Status/Timeline:</i> December 2021, effective by January 2022 (Anticipate that legislative proposal would go to the council in November 2020, and to the Legislature in 2021, with rule proposals to be developed concurrently.)</p> <p><i>Resources:</i></p> <ul style="list-style-type: none"> • <i>ITAC:</i> Joint Ad Hoc Subcommittee on Remote Video Appearances; Digital Evidence Workstream • <i>Judicial Council Staffing:</i> Information Technology, Legal Services, Center for Families, Children & the Courts, Governmental Affairs • <i>Collaborations:</i> Civil and Small Claims, Family and Juvenile Law, and Probate and Mental Health Advisory Committees; Digital Evidence Workstream 	

¹ For rules and forms proposals, the following priority levels apply: 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.



JUDICIAL COUNCIL OF CALIFORNIA

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

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

May 17, 2017

To: Hon. Douglas P. Miller, Chair, Executive and Planning Committee
Hon. Kenneth K. So, Chair, Policy Coordination and Liaison Committee
Hon. Harry E. Hull, Jr., Chair, Rules and Projects Committee
Hon. Marsha G. Slough, Chair, Technology Committee
Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Mr. Martin Hoshino, Administrative Director

Re: Addressing the recommendations of the Commission on the Future of
California's Court System

Dear Justice Miller, Judge So, Justice Hull, Justice Slough, Judge Rubin, and Mr. Hoshino:

On April 26, 2017, I received the final report of the Commission on the Future of California's Court System (Futures Commission). The report sets forth recommendations for legal and structural reforms for the judicial branch of government to improve access to justice and to better serve current and future generations of Californians.

My charge to the Futures Commission was to cast a wide net to capture and to explore transformative ideas for the judicial branch with due attention to the reality of what is both practical and achievable. I commend the commission members for successfully keeping to that charge in bringing forward recommendations addressing civil and small claims, criminal and traffic law and procedures, family and juvenile law, fiscal and administrative operations, and technology.

In April 2016, the commission delivered an interim report proposing a method to reallocate vacant judgeships to courts with the greatest workload needs. I referred this proposal to the Judicial Council for consideration. The council took prompt action to draft and sponsor proposed legislation that would authorize it to make such reallocations. The Governor has included a judgeship reallocation proposal in his 2017–2018 budget proposal, and the council is working with the Legislature and the Administration to move the proposal forward.

Now having reviewed and considered the commission's full report, I am directing Judicial Council action on its final recommendations.

Judicial Council Action on Recommendations

The recommendations in the final report are worthy of consideration and evaluation.

Implementation of certain proposals falls firmly within the purview of the judicial branch; others require the support of our sister branches of government and justice system partners and stakeholders. I recognize, however, that consideration must be given to how and when recommendations may be implemented relative to opportunity as well as resources. I am, therefore, directing immediate Judicial Council action on several of the recommendations as follows:

- ***Civil adjudication of minor traffic infractions.*** The Judicial Council's Traffic Advisory Committee, in collaboration with the Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Criminal Law Advisory Committee, is directed to develop for Judicial Council consideration a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions. The proposal should include recommendations for statutory and rule changes as well as appropriate standardized processes to free up court and law enforcement resources and simplify procedures for defendants. Input on the proposal should be sought from law enforcement, the Department of Motor Vehicles, organizations representing the interests of low-income Californians, and other stakeholders. Further, the committee is directed to explore, evaluate, and recommend options for online processing for all phases of traffic infractions.
- ***Revision of civil case tiers and streamlined civil procedures.*** The Judicial Council's Civil and Small Claims Advisory Committee is directed to assess and make recommendations to the Judicial Council on advancing a legislative proposal for increasing the maximum jurisdictional dollar amounts for limited civil cases to \$50,000, and creating a new intermediate civil case track with a maximum jurisdictional dollar amount of \$250,000. Further, the committee is directed to propose for council consideration the streamlining of methods for litigating and managing all types of civil cases. The committee is directed to work with various bar groups and legal aid providers to ensure the fairness and equity of any proposal to modify existing jurisdictional amounts and civil procedures, in addition to working with trial court leadership to ensure the courts' ability to implement such changes.
- ***Assistance for self-represented litigants.*** The Judicial Council's Advisory Committee on Providing Access and Fairness is directed to develop a proposal for Judicial Council consideration of the structure, content, and resource requirements for an education program to aid the growing number of self-represented litigants (SRLs) in small claims and civil cases where SRLs are most common. This proposal should include options for improving access to local court-based assistance for SRLs. Further, in consultation with local and statewide self-help providers, Judicial Council staff is directed to develop a proposal to facilitate the provision of specialized state-level resources for SRLs. The proposal should rely to the extent feasible on existing resources and technology for the coordinated deployment of information, tools, and technical assistance for courts and justice system partners in their role as self-help providers.

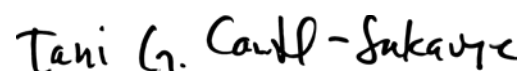
- ***Expansion of technology in the courts.*** The Judicial Council's Information Technology Advisory Committee is directed to consider, for presentation to the Judicial Council, the feasibility of and resource requirements for developing and implementing a pilot project to allow remote appearances by parties, counsel, and witnesses for most noncriminal court proceedings. Further, the committee is directed to explore available technologies and make recommendations to the Judicial Council on the potential for a pilot project using voice-to-text language interpretation services at court filing and service counters and in self-help centers. Finally, the committee is directed to explore and make recommendations to the council on the potential for a pilot project using intelligent chat technology to provide information and self-help services. The committee should seek input for these efforts from pertinent council advisory committees and stakeholders. Where pilot projects are implemented, the committee is directed to report back on outcomes and make recommendations for statewide expansion.

I am requesting that each lead committee submit a status report on the assigned recommendations to its Judicial Council internal oversight committee at the end of the third quarter of 2017.

For the balance of the recommendations, I am directing the Executive and Planning Committee to make assignments to the appropriate council advisory committees for consideration. This should occur within the established annual agenda process for committees, taking into account current commitments and available resources.

The commission's report represents an important investment by the judicial branch in its future. It reflects the branch's openness to seek and receive input from the public and from stakeholder groups on how we can make our court system better. I look forward to timely progress by the Judicial Council in considering and acting on these assignments.

Sincerely,



Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council