



Judicial Council of California

Advisory Committee on Providing
Access & Fairness

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ADVISORY COMMITTEE ON PROVIDING ACCESS AND FAIRNESS

MINUTES OF OPEN MEETING WITH CLOSED SESSION

June 20, 2024
12:15 - 1:15 p.m.
via Zoom

Advisory Body Members Present: Hon. Kevin Brazile (Cochair), Hon. Victor Rodriguez (Cochair), Hon. Jose Castillo, Hon. Thomas Delaney, Hon. Rebekah Evenson, Ms. Ana Maria Garcia, Hon. Clare Keithley, Hon. Victoria Kolakowski, Ms. Nina Magno, Hon. Lia Martin, Mr. Lawrence Meyer, Ms. Kemi Mustapha, Ms. Julie Paik, Ms. Andrea Pella, Mr. Michael Powell, Hon. Michael Rhoads, Hon. Laura Walton, and Mr. Mitchell Wunsh.

Advisory Body Members Absent: Ms. Morgan Baxter, Hon. Judith Dulcich, Hon. Amy Guerra, Ms. Janet Hudec, Hon. Sunil Kulkarni, Hon. Richard Lee, Hon. Cynthia Loo, Ms. Shirley Luo, Hon. Elizabeth Macias, Ms. Fariba Soroosh, Hon. Terry Truong, and Ms. Twila White

Others Present: Ms. Irene Balajadia, Mr. Douglas Denton, Elizabeth Tam-Helmuth, Hon. Jacqueline Jackson, Ms. Cristina Resendiz-Johnson, Ms. Eunice Lee, Ms. Anna Maves, Ms. Amanda Morris, and Ms. Chio Saephanh.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:16 p.m. and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the April 18, 2024, Advisory Committee on Providing Access and Fairness meeting. Motion to approve by Mr. Lawrence Meyer, seconded by Judge Rebekah Evenson.

Justices Victor Rodriguez and Jose Castillo, Judges Kevin Brazile and Laura Walton, and Ms. Kemi Mustapha abstained from voting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-2)

Item 1

Equal Access Fund Distribution to the California Access to Justice Commission

Presenter: Ms. Laura Brown, Sr. Analyst, Center for Families, Children & the Courts

Ms. Laura Brown presented to the committee on the proposed distribution of \$5 million to the California Access to Justice Commission for grants to civil legal aid nonprofits to support the infrastructure and innovations needs of legal services in civil matters for indigent persons, as authorized by the Budget Act of 2024.

Action: Motion to approve the proposal by Judge Kevin Brazile, seconded by Justice Jose Castillo. There were no oppositions or abstentions. Judge Victoria Kolakowski noted for the record that she is on the Access to Justice Commission.

Item 2

Language Access Signage and Technology Grant Program

Presenter: Hon. Victor A. Rodriguez, Associate Justice of the Court of Appeal, First Appellate District, Division Three

Justice Victor Rodriguez presented to the committee on the proposed allocations for Signage and Technology Grant Program, cycle 6. The included a brief history of the Signage and Technology Grant Program and the proposed grant awards of \$2.35 million to expand language access for court users. 18 courts applied for signage and technology needs for fiscal year 2024-25.

Action: Motion to approve the proposal by Judge Thomas Delany, seconded by Judge Rebekah Evenson. There were no oppositions or abstentions.

A D J O U R N M E N T

There being no further open meeting business, the meeting was adjourned at 12:32.

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

Approval of Minutes

The advisory body reviewed and approved the closed session minutes of the April 18, 2024, Advisory Committee on Providing Access and Fairness meeting. Motion to approve by Judge Michael Rhodes, seconded by Judge Clare Keithley.

Justices Victor Rodriguez and Castillo, as well as Judge Laura Walton abstained from voting.

Adjourned closed session at 12:33.

Approved by the advisory body on enter date.

November 15, 2024

Addressing Racial Disparities and Improving Equity in California's Adult Collaborative Programs

A report from the Collaborative Justice
Courts Advisory Committee



Judicial Council of California

Collaborative Justice Courts
Advisory Committee

JUDICIAL COUNCIL OF CALIFORNIA

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*Supervising Analyst
Primary Author of Report*

Jeremy Merrick
Senior Analyst

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RACIAL JUSTICE, EQUITY, AND INCLUSION SUBCOMMITTEE**

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Ms. Veronica D. Lewis, Co-Chair

Director, Homeless Outreach Program Integrated Care System

Hon. Lawrence G. Brown

Superior Court of California, County of Sacramento

Hon. Stephen V. Manley

Superior Court of California, County of Santa Clara

Mr. Gavin O'Neill

(At the invitation of the committee chair)

Principal Analyst, Superior Court of California, County of Alameda

ADVISORY MEMBERS

Ms. Vida Castaneda

(At the invitation of the committee chair)

Senior Analyst, Judicial Council of California

Ms. Cristina Resendiz-Johnson

(At the invitation of the committee chair)

Attorney II, Judicial Council of California

The Collaborative Justice Courts Advisory Committee offers a special thank you to Mr. Michael Roosevelt, Senior Analyst (retired), for his leadership in championing equity and inclusion within the judicial branch during his 25-year tenure with the Judicial Council of California.

COLLABORATIVE JUSTICE COURT ADVISORY COMMITTEE

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Introduction

Branch Goal 1 of the Strategic Plan for California’s Judicial Branch – Access, Fairness, Diversity, and Inclusion – calls on the Judicial Council and the courts “to remove all barriers to access and fairness by being responsive to the state’s cultural, ethnic, socioeconomic, linguistic, physical, gender, sexual orientation, and age diversities, and to all people as a whole.”¹ The Judicial Council’s Collaborative Justice Courts Advisory Committee views this call to action as integral to the core function and continued success of collaborative court and diversion programs across California.

The Collaborative Justice Courts Advisory Committee facilitates its role to the council and its service to California courts by making recommendations on guidelines for collaborative programs,² recommending methods for collecting data to evaluate program effectiveness, and identifying and disseminating locally generated and nationally recognized best practices.³ Through this role, the advisory committee researched the primary needs and challenges voiced by collaborative programs from across the state and nationally to identify trends in program development, growth, and sustainability. Chief among the advisory committee’s findings was the request for a dedicated examination of programmatic and data-driven solutions to improve access and participant outcomes by addressing racial disparities.

The advisory committee began its examination as part of its 2022 Annual Agenda by creating a Racial Justice, Equity, and Inclusion Workgroup – now embodied as a standing subcommittee – in consultation with council staff to the Advisory Committee on Providing Access & Fairness and the Tribal/State Programs. Under the advisory committee’s direction to make recommendations on opportunities to move racial justice work forward, the workgroup recommended that the advisory committee 1) establish a dedicated standing subcommittee focused on improving equity within collaborative programs, and 2) draft a report to the Judicial Council on the workgroup’s initial findings. The advisory committee adopted the workgroup’s recommendations and, through the 2023 and 2024 Annual Agenda processes, set out to submit a report to the council. This report, as directed under the 2024 Annual Agenda, is the culmination of the advisory committee’s efforts to make recommendations to the council on best practices and guidelines for pursuing racial equity within collaborative programs.

¹ California Courts, “Goal I: Access, Fairness, Diversity, and Inclusion,” Branch Goals, <https://www.courts.ca.gov/42621.htm#goal1> (as of July 15, 2024).

² Collaborative programs are court programs that incorporate judicial supervision, collaboration among justice system partners, or rehabilitative services. These include collaborative justice courts, diversion programs, and similar court-monitored programs that seek to improve outcomes and address problems facing court-involved and justice system-involved individuals and those at risk of becoming involved with the justice system, including, but not limited to, individuals with mental health issues, substance use disorders, or co-occurring disorders. See Cal. Rules of Court, rule 10.56(a).

³ *Id.*, rule 10.56(a)–(b).

Research demonstrating racial disparities within the criminal justice system is well established. Racial disparities are documented at every decision point within the system – beginning with initial contact with law enforcement, to case adjudication, sentencing and reentry. The impact of these disparities extends to families, communities and others burdened by the collateral consequences of criminal justice involvement.⁴ While collaborative programs are known for improving certain criminal justice outcomes – such as reducing recidivism and improving public safety and health outcomes – they are not immune from criticism and concerns over racial inequities within program operations. These concerns are not unique to California. All Rise, founded as the National Association of Drug Court Professionals and the leading clearinghouse of national research on adult treatment court models (drug courts, mental health courts, veterans treatment courts, and driving while impaired courts), examined decades of research showing that the persistence of racial disparities in treatment courts is similar to those seen across the broader justice system. Specifically, research has shown underrepresentation, low retention, and low graduation rates of Black, American Indian/Alaska Native, and Hispanic participants despite these groups being overrepresented in the criminal justice system and standing to gain considerable benefit from program participation.⁵

To support jurisdictions across the country in addressing racial disparities within adult treatment courts, All Rise established Standard II: Equity and Inclusion as part of its Adult Treatment Court Best Practice Standards.⁶ This standard seeks to ensure equitable program access, service provision, and participant outcomes and provides guidance on monitoring and rectifying racial disparities. Understanding the All Rise guidance and other available research and developing and applying solutions to advance racial equity within California’s collaborative programs requires a dedicated, long-term commitment. The advisory committee, through its Racial Justice, Equity, and Inclusion Subcommittee, recognizes and embraces this commitment, and this report is a first step in establishing a long-term plan.

Racial Equity

Racial equity requires the dedicated practice of removing historical and structural barriers, such as removing barriers that exist within institutions, laws, policies, and social structures.

By reaching measurable milestones and outcomes, racial equity is achieved when racial identity can no longer be used to predict individual or group outcomes and when outcomes for all groups are improved.

⁴ See, for example, Nat. Inst. of Corrections, “Racial Disparities and Dynamics in the Criminal Justice System,” <https://nicic.gov/resources/nic-library/hot-topics/racial-disparities-and-dynamics-criminal-justice-system> (as of July 15, 2024).

⁵ See, for example, All Rise, “Adult Treatment Court Best Practice Standards” (2024), p. 36, https://allrise.org/wp-content/uploads/2023/12/All-Rise-Adult-Treatment-Court-Best-Practice-Standards-2nd-Ed.-I-VI_final.pdf.

⁶ *Id.*, at pp. 32–53.

Report and Recommendations

Realizing that there is much work to do to support collaborative programs in embedding equity across the full sociodemographic and sociocultural characteristics of California’s communities,⁷ the advisory committee will support courts by focusing on one subgroup at a time. Focus will start with adults from historically marginalized racial and ethnic groups. This subgroup is illustrated through national research and the advisory committee’s findings as being the most severely underserved population by collaborative programs.⁸ Focusing on one subgroup at a time will enable the advisory committee to develop a dedicated strategy that is responsive to each subgroup and that supports courts in sustaining long-term, equitable programs.

Principles of racial equity and inclusion must be embedded into all collaborative programs to reduce and eliminate racial disparities and disproportionalities.⁹ The goal of this report is to establish initial

Defining disparity and disproportionality

Disparity looks at all people who are at a particular decision point and who are comparable to one another – such as having the same or similar needs, eligibility and preferences. Disparity illustrates the unequal treatment or outcomes at that decision point for one racial/ethnic group when compared to other groups at that same decision point.

Disproportionality focuses on the percentage of a racial/ethnic group at a particular decision point when compared to that same group’s representation in the overall population.

See footnote 9 for examples of disparity and disproportionality within collaborative programs.

⁷ For this report, equity refers to the fair treatment of all people by considering individual needs and differences. The definition of sociodemographic characteristics and sociocultural identities are based on the Adult Treatment Court Best Practice Standards by All Rise. Sociodemographic characteristics is defined as a “persons’ apparent or readily assessable characteristics,” including but not limited to “race, some ethnicities, cisgender sex, age, national origin, receptive or spoken language, socioeconomic status, and some physical or medical conditions such as mobility impairments.” Sociocultural identities is defined as “an individual’s self- identification as being a member of a particular cultural group and sharing a similar background, philosophy, experiences, values, or behaviors with other members of that group” including but not limited to “religious or ethnic cultural practices or traditions, gender identity, or sexual orientation.” *Id.*, at p. 43.

⁸ For example, national research demonstrates racial imbalances in treatment courts where non-white participants are admitted into programs and graduate at lesser rates compared to white participants. Fred L. Cheesman II, et al., “Racial differences in drug court referral, admission, and graduation rates: Findings from two states and eight counties” (2023) 21(1) *Journal of Ethnicity in Criminal Justice*, 80–102, <https://doi.org/10.1080/15377938.2023.2193952>. See also, All Rise, *supra* note 5, at p. 36 (stating that many programs report cultural disparities in program referral, admission, and completion rates).

⁹ For this report, inclusion focuses on creating an environment that removes barriers and provides accommodations to ensure equal acceptance and access, and that promotes empowered participation for all. Disparity focuses on the unequal treatment or outcomes of people of a racial or ethnic group at a particular decision point when compared to the other groups at the same decision point. For example, a disparity is the unequal admission and rejection to collaborative courts between white and non-white applicants who meet program eligibility criteria. Disproportionality focuses on the ratio between the percentage of people of a racial or ethnic group at a particular decision point when compared to the percentage of that same racial or ethnic group in the overall population. For example, a disproportionality is the differences in the percent of non-white people admitted into collaborative programs compared to the percentage of non-white people involved in the local justice system.

steps for the advisory committee to support collaborative programs in achieving racial equity and inclusion. This report begins by providing background information on California’s collaborative programs, along with state-level and national findings on racial disparities within program access, retention, and graduation rates. The report provides four priority areas identified by the advisory committee as initial opportunities for the judicial branch to advance racial equity while navigating the current political, economic, and public health landscapes. The report concludes with an account of activities the advisory committee will seek to undertake as it continues to move this work forward.

California’s Collaborative Programs and The Need to Focus on Racial Equity

California’s collaborative programs promote accountability by combining judicial supervision with rigorously monitored rehabilitation services and treatment in lieu of detention. These programs include traditional collaborative courts – such as drug courts, veterans treatment courts, homeless courts, and mental health courts – as well as diversion and other pre- and post-plea alternatives to incarceration.¹⁰ Program models are based on research-informed best practices and designed to reduce recidivism and improve participant outcomes. Collaborative programs are cost effective alternatives to incarceration that provide public savings witnessed across both criminal justice and health systems.¹¹ The effectiveness of these programs is applauded across the courts and its sister branches, with every county in California implementing court-ordered diversion programs and 56 of California’s 58 counties having at least one type of collaborative court.¹² The state has over 400 collaborative courts as of April 2024.¹³

The growth of collaborative courts, both in California and nationally, has allowed the body of research on program effectiveness to expand and begin identifying common program gaps, challenges, and shortcomings. While many studies have focused on general gaps and challenges associated with program administration and participant outcomes, one of the most heightened

¹⁰ See, for example, Senate Bill 725 (Stats. 2017, ch. 179) expands veterans diversion; Assembly Bill 208 (Stats. 2017, ch. 778) expands pretrial drug diversion; Assembly Bill 1810 (Stats. 2018, ch. 34) enacts mental health diversion; Senate Bill 394 (Stats. 2019, ch. 593) enacts primary caregiver diversion; and (Assembly Bill 79, Stats. 2020, ch. 11) expands diversion of defendants with cognitive developmental disabilities.

¹¹ Nat. Inst. of J., “Do Drug Courts Work? Findings From Drug Court Research,” <https://nij.ojp.gov/topics/articles/do-drug-courts-work-findings-drug-court-research> (as of July 15, 2024); U. S. Government Accountability Off., *Adult Drug Courts: Studies Show Courts Reduce Recidivism, but DOJ Could Enhance Future Performance Measure Revision Efforts* (Dec. 2011), <https://www.gao.gov/new.items/d1253.pdf>; Shannon Carey, et al., “California Drug Courts: Outcomes, Costs, and Promising Practices: An Overview of Phase II in a Statewide Study” (Dec. 2006) *Journal of Psychoactive Drug* 351; Admin. Off. of the Cts., Center for Families, Children & Cts., *California Drug Court Cost Analysis Study* (May 2006), https://www.courts.ca.gov/documents/cost_study_research_summary.pdf; Dept. of Health Care Services, “Drug Courts Overview,” <https://www.dhcs.ca.gov/individuals/Pages/Drug-Courts-Overview.aspx> (as of July 15, 2024).

¹² Alpine and Colusa Counties, the state’s least populous counties, do not have collaborative courts due to their small size.

¹³ Judicial Council of Cal., *Collaborative Justice Courts* (fact sheet, Apr. 2024), www.courts.ca.gov/documents/CollaborativeCourts_factsheet.pdf.

shortcomings exposed through in-depth data analyses is racial and cultural disparities across every aspect of program operations. A study of 142 adult collaborative courts from across the county examining over 20,000 participants showed racial disparities among program completion rates. While, on average, 55 percent of white participants successfully completed programs, Black and Hispanic or Latinx participants achieved much lower completion rates (38% and 49%, respectively).¹⁴ Similar disparities were shown across program referral and admissions,¹⁵ causing a negative cascading impact at future program decision points.¹⁶ Developing immediate and long-term strategies to reduce and eventually eliminate disparities are crucial to the growth and continued success of collaborative programs. National research conducted over the past decade has identified several factors contributing to these disparities and offers guidance on ways that programs can monitor, intervene, and correct program operations.

What is the Difference Between Racial Equity, Diversity, and Inclusion?

Racial equity (defined earlier) is the process of eliminating disparities and improving outcomes for everyone.

Diversity is the practice of including people from a range of identities. Diversity involves a quantitative measure of sociodemographic characteristics or sociocultural identities.

Inclusion is the practice of providing full access, acceptance, and empowered participation for all people. Inclusion measures the quality of representation.

The advisory committee seeks to leverage its role and duty to the council to make recommendations on best practices and guidelines for pursuing racial equity in collaborative programs.¹⁷

Foundational to this call to action is asking courts to collect data on key performance indicators of program practices and outcomes, and to measure improvements over time. This measurable data will allow courts to observe and demonstrate the reduction – and eventual elimination – of racial disparities within program participation and demonstrate improved outcomes for all participants. To support courts with this call to action, the advisory committee identified four priority areas that the judicial branch can pursue to begin addressing racial disparities in collaborative programs. These priority areas are designed to support the judicial branch’s goal to ensure equal access and fairness to the courts.

The priority areas outlined in this report will allow the advisory committee to build upon its recent efforts to enrich the field of knowledge across the state. Recent efforts include the

¹⁴ Timothy Ho, et al., “Racial and gender disparities in treatment courts: Do they exist and is there anything we can do to change them?” (2018) 1 *Journal for Advancing Justice* 5–34, <https://allrise.org/wp-content/uploads/2022/07/AJ-Journal.pdf>.

¹⁵ Fred L. Cheesman II, et al., “From a performance measure to a performance evaluation tool: Conceptual development of the Equity and Inclusion Assessment Tool (EIAT)” (2019) 40(3) *Justice System Journal* 259–266, <https://doi.org/10.1080/0098261X.2019.1656421>.

¹⁶ All Rise, *supra* note 5, at p. 36.

¹⁷ Cal. Rules of Court, rule 10.56.

advisory committee’s 2021 report to the council that identified opportunities to improve court responses to people with mental illnesses.¹⁸ Encompassed in the 2021 report were recommendations to improve data collection and analyses to better allow courts to identify “potential issues of disproportionality, and other equity metrics.”¹⁹ The priority areas in this report will also continue the work started by the former Task Force for Criminal Justice Collaboration on Mental Health Issues, established in 2008 by former Chief Justice Ronald M. George and operationalized by former Chief Justice Tani G. Cantil-Sakauye’s Mental Health Issues Implementation Task Force. These task forces recommended that the branch research the effectiveness of programs serving justice-involved people with mental illness, including outcomes across different subgroups such as race.²⁰ The priority areas in this report additionally seek to align with the work of the council’s Advisory Committee on Providing Access and Fairness, and projects undertaken by its Ad Hoc Racial Justice Working Group.²¹

Priority Areas for Addressing Racial Disparities and Improving Equity within California’s Adult Collaborative Programs

The following priority areas are designed to promote collaboration at the state and local levels. Each priority area includes actionable recommendations that cover a range of council or court opportunities, such as improving practices and procedures in adult collaborative programs, program assessment and data evaluation, training and education, and promoting improved access to culturally responsive treatment and services. Many of the recommendations can be accomplished through regular advisory committee or court action. Fully addressing certain recommendations, however, may depend on the availability of council or court staff capacity, additional judicial branch funding, or buy-in from local justice system partners. Considerations were made to outline steps, when possible, that the council or courts may take at little or no cost. Recommendations or actions that may require additional state or local court funding should be considered as aspirational while establishing a framework for future activity if funding and opportunity become available.

¹⁸ Judicial Council of Cal., Advisory Com. Rep., *Collaborative Justice: Task Force for Criminal Justice Collaboration on Mental Health Issues: Adult Criminal Progress Update and Priority Areas* (Mar. 12, 2021), <https://jcc.legistar.com/View.ashx?M=F&ID=9183001&GUID=0277A251-CE63-435C-BCC5-F7D7259FF983>.

¹⁹ *Id.*

²⁰ Judicial Council of Cal., Advisory Com. Rep., *Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report* (Apr. 29, 2011), p. 67, <https://www.courts.ca.gov/documents/20110429itemo.pdf>; and Judicial Council of Cal., Advisory Com. Rep., *Mental Health Issues Implementation Task Force: Final Report* (Nov. 13, 2015), p. 73, <https://jcc.legistar.com/View.ashx?M=F&ID=4150698&GUID=AC76E801-5C3A-4244-99D0-1B5DDD0776DB>.

²¹ Judicial Council of Cal., Advisory Committee on Providing Access and Fairness 2024 Annual Agenda, <https://www.courts.ca.gov/documents/paf-annual.pdf> (as of July 15, 2024).

Priority Area 1: Encourage all adult collaborative programs to assess equity and inclusion within program operations and to take dedicated actions to improve equity within program participation, retention, and participant outcomes.

All Rise, a leading research and technical assistance entity for adult treatment courts, affirms that treatment courts “were created to improve outcomes in the criminal justice system, including making outcomes and service provision more culturally equitable and inclusive. Yet cultural disparities in referral, admission, and completion rates are reported in many programs.” Emphasizing the wealth of national research supporting this statement and feedback provided by collaborative courts in California, the advisory committee echoes All Rise by suggesting that courts pursue available guidance to “monitor and rectify unwarranted cultural disparities” within program access, services, and outcomes.²²

To support California’s collaborative courts in evaluating potential racial disparities within program operations, the advisory committee recommends:

- 1) All collaborative courts focused on serving the needs of adults with mental illness, substance use disorders, or co-occurring disorders to use an assessment tool to identify and correct areas where racial disparities may exist.
- 2) The Judicial Council to direct staff from Criminal Justice Services to explore funding options to support a pilot program that offers technical assistance to adult collaborative courts to implement an equity and inclusion assessment tool.

Rationale

The advisory committee recommends that adult collaborative programs use at least one of two free assessment tools: the Racial and Ethnic Disparities Program Assessment Tool developed by the National Drug Court Resource Center,²³ or the Equity and Inclusion Assessment Tool developed by All Rise and the National Center for State Courts.²⁴ The advisory committee identified these tools as notable resources for adult treatment courts – collaborative courts that serve adults with mental illness, substance use disorders, or co-occurring disorders – to evaluate progress towards reducing racial disparities and to establish measurable strategies for improving program operations, policies, and procedures. The advisory committee further recommends that adult treatment courts assess their programs annually to measure progress made over time.

²² All Rise, *supra* note 5, at p. 3.

²³ The Racial and Ethnic Disparities Program Assessment Tool was developed by the National Drug Court Resource Center, a program under the Justice Programs Office at American University, through a federal grant from the U.S. Department of Justice’s Bureau of Justice Assistance. The tool is accessible at <https://redtool.org>.

²⁴ The Equity and Inclusion Assessment Tool was developed by All Rise’s Treatment Court Institute in partnership with the National Center for State Courts. The tool is accessible at <https://allrise.org/publications/equity-and-inclusion-assessment-tool>.

The Racial and Ethnic Disparities Program Assessment Tool is a web-based tool that assists adult treatment courts in assessing areas where racial disparities may exist in program administration and provides recommendations on areas for improvement. The Equity and Inclusion Assessment Tool allows courts to examine program data to identify proportional differences in program referral, admission, graduation, non-entry, and non-completions between demographic groups, as well as the reasons for non-entry and non-completions. The tool additionally provides guidance on ways to improve data collection and strategies to reduce disparities. Collaborative courts using either tool may supplement usage by requesting individualized training and technical assistance to further identify and implement strategies to improve program policies and procedures.

Racial equity within collaborative programs requires a dedicated and continual focus, particularly as collaborative programs in California grow, expand caseload sizes and build new programs to implement legislative priorities. The advisory committee recommends that the council explores funding opportunities to support a pilot program that brings technical assistance to a cohort of adult collaborative courts and that supports the statewide development of best practices that can be shared across all collaborative programs. This may include exploring funding opportunities to pursue training and technical assistance associated with the Racial and Ethnic Disparities Program Assessment Tool offered by the Center for Justice Innovation or technical assistance for the Equity and Inclusion Assessment Tool offered by All Rise. As those tools are designed for treatment courts and may not be suitable for assessing the full array of collaborative program models in California, the advisory committee further recommends that the council explore funding opportunities to train staff to the council's Criminal Justice Services to provide courts with responsive technical assistance.

Securing funding to provide training and technical assistance will directly assist collaborative programs while also supporting the advisory committee's duty to recommend and distribute best practices and guidelines and to assess and measure the success of collaborative programs.²⁵ Staff to the council's Criminal Justice Services are currently seeking funding through a 2024 grant solicitation by the U.S. Department of Justice, Bureau of Justice Assistance to support this priority area and will explore additional funding opportunities to move this work forward.

This recommendation aligns with other advisory committee projects that support training and technical assistance. In collaboration with All Rise and the council's Criminal Justice Services, the advisory committee hosted a training on equity and inclusion in June 2024. All Rise's Treatment Court Institute, in partnership with the White House Office of National Drug Control Policy, developed an intensive two-day training based on the Adult Treatment Court Best Practice Standards, Standard II: Equity and Inclusion. All Rise trained four collaborative court teams on tools that collect and analyze program data and provided guidance for improving program outcomes. The June 2024 training, along with the recommendations outlined in this

²⁵ Cal. Rules of Court, rule 10.56(b)(1)-(3).

report, will assist the advisory committee and the council in extending its educational reach to a greater number of California collaborative programs.

Priority Area 2: Promote the state-level adoption and local application of current best practices for advancing equity within adult collaborative programs.

California's legislative and judicial branches have historically recognized drug courts and other collaborative court models as mechanisms to evoke positive public safety and health outcomes by incorporating behavioral health treatment and social services with judicial supervision. This recognition has included embodying early research on drug court best practice standards in statute and in the California Standards of Judicial Administration. Advancements in research on best practice standards for adult treatment courts have echoed the evolution of these programs in California. Amendments to existing statutes and standards are necessary to express the modernized best practices standards and to allow flexible application of the standards as collaborative programs continue to evolve.

To support California's collaborative courts in adopting best practice standards centered around equitable program access and outcomes, the advisory committee recommends:

- 1) The Judicial Council to direct the advisory committee to update standard 4.10 of the California Standards of Judicial Administration, Guidelines for diversion drug court programs, to extend its application to all adult collaborative programs, reflect current best practices, and promote equitable program access and outcomes.
- 2) The Judicial Council to direct the advisory committee to pursue a legislative proposal for council sponsorship to amend Health and Safety Code § 11972, Drug Court Programs Act, to reflect current state and nationally recognized best practices, including best practices for promoting diversity, equity, and inclusion.

Rationale

Standard 4.10 of the California Standards of Judicial Administration, Guidelines for diversion drug court programs, was adopted in 1998 and renumbered in 2007 as part of the reorganization of the California Rules of Court. The standard has not received substantive revisions since its adoption. Health and Safety Code § 11972, Drug Court Programs Act, has followed a similar journey. Initially enacted as the Comprehensive Drug Court Implementation Act of 1999, this statute codified drug court standards and requirements for a former grant program that funded drug courts across the state. The statute was amended in 2013 to repeal the grant program, and the renamed Drug Court Programs Act preserved the drug court standards outlined in the initial

legislation. The Drug Court Programs Act clarified that the intent of the legislature is to encourage drug courts to model themselves after national best practice standards.²⁶

The drug court standards specified in both standard 4.10 of the California Standards of Judicial Administration and in Health and Safety Code § 11972 are the inaugural standards created in 1997 by All Rise, then known as the National Association of Drug Court Professionals.²⁷ The inaugural standards – *Defining Drug Courts: The Key Components* – have since been revised multiple times to reflect changes within drug court operations and to reflect advancements in research on effective program operations. All Rise released its latest revisions in early 2024, with additional revisions anticipated for late 2024. The latest revisions include, among other transformations, an expanded application to all adult treatment courts rather than the initial, limited focus of adult drug courts, as well as a sophisticated assessment of equity and inclusion to ensure equitable access, services, and outcomes.²⁸

Maintaining the narrow drug court standards fails to address the expanded behavioral health and social service needs of program participants and fails to adequately address equity. Modern research highlights the high rate of co-occurring substance use disorders with mental illness, cognitive disabilities, traumatic brain injury and other severe behavioral health needs that must be addressed alongside drug use.²⁹ Research also shows that it is critical to address other social service needs – such as housing stability – to support long-term recovery. The narrow drug court standards have also failed to keep pace with the ever-changing criminal justice landscape in California. The structure of adult drug courts and adult drug diversion programs have significantly evolved because of modern research, the state’s policy priorities, and legislative reforms. Collaborative programs in California have responded to this evolution by continually adapting and enhancing best practices that reflect state-specific policies and locally recognized practices. This allows programs to develop harmoniously with new research-informed best practices, local and community needs, and legislative priorities.

The advisory committee will propose amendments to standard 4.10 of the California Standards of Judicial Administration as directed by its 2024 Annual Agenda. The advisory committee

²⁶ Senate Bill 1014 (Stats. 2012, ch. 36).

²⁷ Cal. Stds. Jud. Admin., std. 4.10(g); Health & Saf. Code, § 11972.

²⁸ All Rise, “Adult Treatment Court Best Practice Standards, 2nd ed.,” <https://allrise.org/publications/standards> (as of July 15, 2024).

²⁹ See, for example, Fred Osher, et al., *Adults with behavioral health needs under correctional supervision: A shared framework for reducing recidivism and promoting recovery* (Council of State Governments Justice Center, 2012), https://csgjusticecenter.org/wp-content/uploads/2020/02/9-24-12_Behavioral-Health-Framework-final.pdf; Hank Steadman, et al. “Six steps to improve your drug court outcomes for adults with co-occurring disorders” (Apr. 2013), https://nterc.org/wp-content/uploads/2022/01/Fact_Sheet_Six_Steps_to_Improve_Your_Drug_Court_Outcomes_for_Adults_with_Co-Occurring_Disorders.pdf; Carolyn Lemsky, *Traumatic Brain Injury and Substance Use Disorders: Making the Connections* (Substance Abuse and Mental Health Services Administration, 2021), <https://attcnetwork.org/wp-content/uploads/2021/04/TBI-SUD-Toolkit-FINAL-11.05.2021.pdf>.

anticipates presenting the proposed amendments to the council as part of the 2025 Invitation to Comment schedule. The advisory committee's Annual Agenda project also supports a requirement anticipated under Senate Bill 910 that, if passed, would require the Judicial Council to revise its California Standards of Judicial Administration to adopt recognized best practices and guidelines for adult treatment courts by January 1, 2026. Senate Bill 910 would also revise Health and Safety Code § 11972 to reflect the current All Rise best practice standards for adult treatment courts. The advisory committee will monitor Senate Bill 910 to determine if further action is necessary to carry out the intent of the advisory committee under this priority area.

Priority Area 3: Leverage Judicial Council data collection initiatives to support collaborative programs in collecting data on race and ethnicity.

Crucial to the success of collaborative programs are the identification and enrollment of eligible participants, ensuring participant retention, fairly applying incentives and sanctions, and supporting participants through program completion. Data collection is foundational to these components. Data collection allows collaborative programs to understand program trends and measure progress towards racial equity. Aligning with objective 1.5 of the Judicial Council's Strategic Plan for Technology, "Implement analytical tools to advance data-driven decision-making regardless of court size or resources,"³⁰ collaborative programs across California are seeking to adopt data infrastructures to gather local data to monitor program and participant outcomes. As programs use the sometimes-limited technology available to them to track participant and service-level data, programs may leverage the council's data initiatives to assist with adopting and incorporating race and ethnicity data into existing data collection processes.

To support California's collaborative programs in collecting and analyzing program data to measure progress towards racial equity, the advisory committee recommends:

- 1) The Judicial Council to direct staff from Criminal Justice Services to develop a training and technical assistance plan to support the implementation of key data definitions and performance measures for adult collaborative programs.
- 2) The Judicial Council to direct staff from Criminal Justice Services to develop a training and technical assistance plan to support courts currently without a case management system with implementing a management information system.

Rationale

Data analysis and program evaluation allow courts to understand a variety of insights, such as who is and is not being served, how well they are being served, areas for operational improvement, and areas of need. These insights lead to operational effectiveness, allowing

³⁰ California Courts, "Strategic Plan for Technology" (Sept. 2022), <https://www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf>.

collaborative programs to adopt a data-driven decision-making approach that ensures program success. Yet, many collaborative programs may not have the infrastructure to collect data, and those that do may be unable to analyze information to evaluate adherence to equitable best practices.³¹ Through recent efforts to support California’s courts with local data collection, the council received a federal grant from the U.S. Department of Justice, Bureau of Justice Assistance for the California Collaborative Court Data Improvement Project (Data Improvement Project). This project allowed the council to research the data-related needs of adult collaborative courts, which informed training and technical assistance that supported courts with local data collection and performance measurements. The goal of this project was to lay a foundation for standardized data collection across drug and other collaborative courts, and to assist courts with assessing adherence to state and national best practices.

The Data Improvement Project built upon work started by the Superior Court of Alameda County. The Alameda Court developed a collaborative court management information system (MIS) through the Court Innovations Grant Program, a grant program funded under the Budget Act of 2016 to promote court innovations and efficiencies.³² The council assessed the Alameda Court’s MIS as replicable and began adapting the MIS for use by rural collaborative courts to reduce difficulties experienced by small courts in managing data. The council also assessed the statewide data management needs of collaborative courts, including an in-depth assessment of courts with well-functioning data collection systems. This assessment explored processes used by courts to purchase third-party systems, design their own systems, ongoing maintenance costs, the types of reports generated, the ability of systems to create new data elements, and data elements collected by a representative sample of collaborative courts. The results of these assessments allowed the council to develop a MIS for rural courts and to test common data definitions and performance indicators that encourage compliance with best practices, including best practices that advance racial equity.³³

The advisory committee, by way of its rule of court, can recommend to the council methods for collaborative programs to collect and evaluate data to measure the effectiveness of programs in pursuing racial equity.³⁴ As grant funding used by the Alameda Court and the council has ended, the advisory committee recommends that the council direct staff from Criminal Justice Services

³¹ All Rise, *supra* note 5, at p. 38.

³² Judicial Council of Cal., *Final Report on the Court Innovations Grant Program, as required under the Budget Act of 2016 (Assem. Bill 1623; Stats. 2016, ch. 318)*, p. 52, www.courts.ca.gov/documents/lr-2021-court-innovations-grant-program-BA-2016.pdf.

³³ Model data definitions identified through the Data Improvement Project include the following categories: arrests and referral (*e.g.*, citation/arrest date, drug court eligible charge, case filing date, drug court referral date, drug court reason for refusal or barriers); intake assessment and screening (*e.g.*, date of program admission, risk and needs assessment, intake result); participant information (*e.g.*, date of birth, gender identity, race, ethnicity, education level, educational status); program activity in treatment and services (*e.g.*, program entry date, treatment start date, treatment type, incentives, sanctions); and outcomes (*e.g.*, program outcome, educational level at program exit, living situation at program exit, income source at program exit, income level at program exit).

³⁴ Cal. Rules of Court, rule 10.56(b)(2).

to develop training and technical assistance plans to implement the work started under these early efforts. These plans may include:

- Training and technical assistance to rural courts to implement the Data Improvement Project MIS to improve data collection and reporting.
- Training available to all collaborative programs on incorporating race and ethnicity data definitions into their existing MIS.
- If funding becomes available, training and technical assistance to collaborative programs on performing program evaluations to measure and monitor program enrollment, completion, and outcomes achieved by participants across race.

This priority area is limited in focus to existing court data management systems and implementation of the Data Improvement Project MIS. The advisory committee understands that the council and trial courts are working together on a branch-wide technology infrastructure that is beyond the scope of this report. This report reflects recommendations that collaborative courts may pursue by leveraging existing resources and that may complement the council's data collection initiatives.

Priority Area 4: Support collaborative program operations and encourage engagement with justice system partners who represent and reflect the local racial and ethnic diversity of the county.

Courts are responsible for a justice system that touches people across cultures. This responsibility is reflected in the Strategic Plan for California's Judicial Branch, Branch Goal I: Access, Fairness, Diversity, and Inclusion, promoting that "[m]embers of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural and social backgrounds."³⁵ A key strategy for the judicial branch to support collaborative programs in achieving this goal is to cultivate partnerships with justice system partners who are culturally responsive to the treatment and social service needs of program participants.

To support California's collaborative programs in maintaining a robust network of local, culturally responsive justice partners, the advisory committee recommends:

- 1) The Judicial Council to direct the advisory committee to examine procedures described in the California Rules of Court and the California Standards of Judicial Administration that collaborative programs can leverage to engage stakeholders reflective of the unique diversity of the county.
- 2) The Judicial Council to direct the advisory committee to propose amendments to the California Rules of Court or the California Standards of Judicial Administration if,

³⁵ California Courts, *supra* note 1.

through the examination described in the previous recommendation, the advisory committee finds that amendments are needed for collaborative programs to effectively bridge connections with local communities.

- 3) The Judicial Council to direct staff from Criminal Justice Services to develop and disseminate educational resources on current state and nationally recognized best practices for collaborative programs.

Rationale

The judicial branch and the advisory committee are aligned in recognizing the importance of diversity, equity and inclusion within the branch and within court responses to the communities they serve. The judicial branch is uniquely positioned to take a leadership role in coordinating appropriate responses to racial disparities and disproportionalities impacting communities. This leadership role is particularly vital in addressing inequities within the criminal justice system, within collaborative programs, and within other court calendars involving people with behavioral health needs. A common mechanism used by courts to express its leadership is by participating in meetings with local stakeholders to address problems impacting local justice systems.

The perspectives of culturally diverse stakeholders, however, are often excluded from conversations about the challenges and solutions impacting local justice systems. Culturally diverse stakeholders often reflect the experiences of court users who are most overburdened by the criminal court system while simultaneously underserved by the local justice and treatment systems. Collaborative programs are not shielded from this phenomenon simply because of their multidisciplinary and collaborative nature. Racial disparities within collaborative programs and racial inequities impacting people with behavioral health needs who access other criminal court calendars is a court-based problem. Without a directive from those in leadership, the perspectives, needs and challenges of culturally diverse stakeholders typically go unheard, unaddressed, or otherwise inadequately addressed. Courts – including court personnel to collaborative programs – can exercise their leadership to ensure diverse perspectives are included in stakeholder meetings to develop more culturally responsive solutions that drive improved public safety and health outcomes.³⁶

The advisory committee seeks to examine current procedures that courts may use to create local committees and to meet with justice system partners. This examination would inform guidance and best practices that the advisory committee may disseminate to collaborative programs, and it would allow the advisory committee to determine whether revisions to procedures are needed for collaborative programs to better embed racial justice into local protocols. The advisory committee would explore procedures described in the California Rules of Court and the

³⁶ “Whereas culturally equitable treatments produce comparable benefits for different cultural groups, culturally proficient treatments are tailored specifically for the needs and characteristics of a particular group,” All Rise, *supra* note 5, at p. 44.

California Standards of Judicial Administration. Initial reviews would include rule 10.951, Duties of supervising judge of the criminal division, and rule 10.952, Meetings concerning the criminal court system. These rules were specifically seen as effective drivers of change by the council’s former Task Force for Criminal Justice Collaboration on Mental Health Issues.³⁷ The initial review would also include standard 10.20, Court's duty to prevent bias. This standard was of particular focus by former Chief Justice Tani G. Cantil-Sakauye’s Work Group to Enhance Administrative Standards Addressing Bias in Court Proceedings.³⁸

To additionally support collaborative programs and encourage engagement with local justice system partners, the advisory committee recommends that staff to Criminal Justice Services develop responsive educational resources. These resources may include in-person training, webinars, toolkits, and other publications to support the application of equitable best practices. Educational resources should embrace the multidisciplinary nature of collaborative programs. Resources should contemplate adaptability to policy changes and legislative priorities and be versatile to allow courts to apply guidance around local customs and needs. Further, judicial officers, court staff, and local justice system partners are encouraged to attend regular training that incorporate equity and inclusion principles into learning objectives.³⁹ The council, through staff from Criminal Justice Services, should prioritize developing cultural competency training, culturally responsive trauma-informed training, guidance on effectively applying therapeutic adjustments particularly if participants would benefit from culturally responsive treatment, and other best practices that increase participant engagement, retention, and success. The advisory committee would leverage its duty to identify and disseminate best practices, training, and program implementation activities to assist council staff with developing the recommended educational resources and making them available to collaborative programs.⁴⁰

Conclusion

[Forthcoming]

³⁷ Cal. Rules of Court, rules 10.951–10.952; Judicial Council of Cal., Advisory Com. Rep., *Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report*, *supra* note 20.

³⁸ Cal. Stds. Jud. Admin., std. 10.20; Judicial Council of Cal., Advisory Com. Rep., *Mental Health Issues Implementation Task Force: Final Report*, *supra* note 20.

³⁹ “Researchers have found that outcomes in drug courts were significantly better when team members attended training workshops or conferences at least annually on topics relating generally to treatment court best practices,” All Rise, *supra* note 5, at p. 37.

⁴⁰ Cal. Rules of Court, rule 10.56 (b)(3).