



## RULES COMMITTEE

### MINUTES OF OPEN MEETING

February 16, 2023

12:10 p.m.

Videoconference

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**Advisory Body Members Present:** Hon. Carin T. Fujisaki, Hon. Kevin C. Brazile, Hon. Samuel K. Feng, Ms. Rachel W. Hill, Hon. Kimberly Merrifield, Hon. Glenn Mondo, and Hon. David Rosenberg

**Advisory Body Members Absent:** Mr. Shawn C. Landry and Mr. Maxwell Pritt

**Staff Present:** Anne Ronan and Benita Downs

**Others Present:** James Barolo, Audrey Fancy, Sarah Fleischer-Ihn, Michael Giden, Hon. Stephanie E. Hulsey Tracy Kenny, Stephanie Lacambra, Eric Long, Kara Portnow, and Daniel Richardson

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order at 12:11 p.m., and Ms. Downs took roll call.

##### Approval of Minutes

- With one abstention (Commissioner Mondo), the advisory body reviewed and approved the minutes of the December 8, Rules Committee meeting.
- With one abstention (Commissioner Mondo), the advisory body reviewed and approved the minutes of the December 13, Rules Committee meeting.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 01-06)

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##### Item 01

##### **Jury Instructions: Criminal Jury Instructions (2023 Edition)**

The committee reviewed a recommendation from the Advisory Committee on Criminal Jury Instructions recommending approval for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. The changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2023 edition of the Judicial Council of California Criminal Jury Instructions (CALCRIM).

**Action:** *The committee unanimously approved the Advisory Committee on Criminal Jury Instructions recommendation, which is to go to the Judicial Council for action at the March council meeting.*

**Item 02**

**Rules and Forms: Technical Form Changes to Reflect Federal Poverty Guidelines**

The committee reviewed a recommendation from Judicial Council staff to revise four Judicial Council forms containing figures based on the federal poverty guidelines to reflect the changes in those guidelines recently published by the federal government. Staff also recommended, at the same time, one of the forms also be revised to reflect recent additions to the qualifying public benefits listed in the fee waiver statute, Government Code section 68632(a).

**Action:** *The committee unanimously approved the Judicial Council staff's recommendation, which is to go to the Judicial Council for action at the March council meeting.*

**Item 03**

**Rules Committee–Action Only**

The committee reviewed a request from the Criminal Law Advisory Committee to add two projects to its annual agenda: 1) developing forms to implement the Racial Justice Act (RJA) (Assembly Bill 2542; Stats. 2020, ch. 317) and Assembly Bill 256 (Stats. 2022, ch. 739, and 2) revising the felony plea form to incorporate a waiver of the right to a trial on aggravating factors that can be used to sentence the defendant to the upper term of a criminal offense or enhancement. Because these projects will incorporate current law, the committee requested to add them to its 2023 annual agenda.

**Action:** *The committee unanimously approved the Criminal Law Advisory Committee's request to add two new projects to its annual agenda.*

**Item 04**

**Juvenile Law: Secure Youth Treatment Facility Offense-Based Classification Matrix**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee to adopt a rule of court to implement Welfare and Institutions Code section 875(h), which requires the council to develop and adopt a matrix of offense-based classifications to be used by all juvenile courts when setting baseline terms for youth committed to a Secure Youth Treatment Facility (SYTF) disposition. The statute calls for the matrix to assign a baseline term of years to each offense for which a youth can be committed to an SYTF. The offenses are to be grouped into offense categories that are linked to a standard baseline term of years for each offense category. The proposed matrix in the rule will include four total offense categories, with each category assigned a range of years as the standard baseline term. To assist the court in determining a baseline term for each youth within the range, the rule sets forth criteria for the court to weigh in making its decision

**Action:** *The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, and recommended that it be placed on the Judicial Council discussion agenda for action at the March council meeting.*

**Item 05**

***Miscellaneous: Technical Amendment Report***

The committee reviewed a recommendation from Judicial Council staff to amend California Rules of Court, rules 8137, 8.406, 8.416, 8.730, 8.805, and 8.837; and revise forms AT-138/EJ-125, CR-290, CR-292, and JV-469. The revisions are needed as a result from typographical errors, and minor changes needed to conform to recent legislation or previous council actions. The corrections are necessary to ensure the rules and forms conform to law and to avoid causing confusion for court users, clerks, and judicial officers.

**Action:** *The committee unanimously approved the Judicial Council staff's recommendation, which is to go to the Judicial Council for action at the March council meeting.*

**Item 06**

***Jury Instructions: Public Access and Publication***

The Rules Committee considered comments and a final recommendation to revise California Rules of Court, rule 2.1050, to remove any implicit references to copyright and to express the council's continued interest in both free public access to its civil and criminal jury instructions and having publishers accurately publish the instructions, properly attribute the council as the source of the instructions, and not claim copyright in them. The proposal originated with a suggestion from a nonprofit organization after a change in copyright law that impacts government bodies, and was directed to the Rules Committee by the council.

**Action:** *The committee unanimously approved the recommendation, which is to go to the Judicial Council for action at the March council meeting.*

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 12:40 p.m.

Approved by the advisory body on March 29, 2023.