

Item 1

TCPJAC Collaboration with the Criminal Law Advisory Committee
(CLAC) on Recommendation to Amend Penal Code 808 to Add
Court Commissioners to the Definition of Magistrate

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

LEG16-__

Title	Action Requested
Subordinate Judicial Officers: Court Commissioners as Magistrates	Review and submit comments by June 17, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Penal Code section 808	January 1, 2017
Proposed by	Contact
Trial Court Presiding Judges Advisory Committee	Eve Hershcopf, 415-865-7961 eve.hershcopf@jud.ca.gov
Hon. Brian L. McCabe, Chair	Deirdre Benedict, 415-865-8915 deirdre.benedict@jud.ca.gov
Criminal Law Advisory Committee	
Hon. Tricia Ann Bigelow, Chair	

Executive Summary and Origin

The Criminal Law and Trial Court Presiding Judges Advisory Committees propose amending Penal Code section 808 to include “court commissioners” within the definition of “magistrate.” This proposal was developed at the request of presiding judges to expand the pool of judicial officers who are authorized to perform magistrate duties, provide courts with greater flexibility to equitably address judicial workloads, and increase access to justice in response to the Governor’s recent call for the development of a more systemwide approach for balancing judicial workload.

Background Magistrates

Penal Code section 808 defines “magistrates” as the judges of the Supreme Court, Courts of Appeal, and superior courts. Court commissioners, a type of subordinate judicial officer (SJO), are not currently included in the statutory definition of “magistrate.”

Magistrates generally perform certain constitutionally and statutorily defined functions in the criminal justice system. The principal functions of magistrates include issuing search warrants, bench warrants, arrest warrants, and warrants of commitment (Pen. Code, §§ 1523, 881(a), 807, 1488); fixing and granting bail (Pen. Code, § 815a); conducting preliminary examinations of persons charged with a felony and binding defendants over for trial or release (Pen. Code,

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee.

These proposals are circulated for comment purposes only.

§ 858); and acting as the designated on-call magistrate when court is not in session (Pen. Code, § 810).

Court commissioners

Article VI, section 22 of the California Constitution empowers the Legislature to provide for the appointment of commissioners and other SJOs to perform subordinate judicial duties.

Government Code section 72190 authorizes commissioners, under the direction of judges, to exercise the powers and perform the duties prescribed by law. The purpose of SJOs is “to assist an overburdened judiciary with the performance of ‘subordinate judicial duties.’” (*Branson v. Martin* (1997) 56 Cal.App.4th 300, 305.)

In criminal cases, court commissioners generally have authority to conduct arraignments and issue bench warrants, if directed to perform those duties by the presiding judge (Gov. Code, §§ 72190.1, 72190.2); hear ex parte motions for orders and alternative writs and writs of habeas corpus (Code Civ. Proc., § 259); make an initial determination on whether a deviation from the bail schedule is appropriate (Pen. Code, § 1269c); and to fix bail in misdemeanor Vehicle Code violation cases (Gov. Code, 72304). In infraction cases, court commissioners are expressly authorized to exercise the same powers and duties as judges, including making probable cause determinations. (Gov. Code, § 72190; *Branson, supra*, 56 Cal.App.4th at p. 305.)

Commissioners, however, do not currently have authority to issue search warrants (see 61 Ops.Cal.Atty.Gen. 487 (1978)) or to take and enter a guilty plea at arraignment (see 67 Ops.Cal.Atty.Gen. 162 (1984)). Court commissioners may act as temporary judges when qualified to do so and appointed for that purpose, but only on stipulation of the parties. (Code Civ. Proc., § 259; see also, Cal. Rules of Court, rule 2.831.)

The Proposal

The Criminal Law and Trial Court Presiding Judges Advisory Committees propose amending Penal Code section 808 to include the term “court commissioners” within the definition of “magistrate.” The proposal would expand the pool of judicial officers who are authorized to exercise magistrate powers and perform magistrate duties. By expanding the authorized duties of commissioners, the proposal is designed to promote court efficiencies, enhance access to justice, and provide court leadership with more flexibility to address judicial workloads.

Over the years, judicial workload demands have exceeded the number of available judicial officers.¹ There were 291 commissioners in the judicial branch as of June 30, 2014.² The number

¹ Judicial Council of Cal., *Need for New Judgeships in the Superior Courts: 2014 Update of the Judicial Needs Assessment* (November 2014), www.courts.ca.gov/12922.htm. This mandatory report to the Legislature describes the filings-based need for judicial officers in the trial courts and shows that an additional 270 full-time equivalent judicial officers are needed in 35 courts. Judicial need is calculated based on a complex workload formula. The statewide need for new judgeships is calculated by adding the judicial need among only the courts that have fewer judgeships than their workload demands.

of SJOs assigned to each court varies widely across the state. Recent years have seen a reduction in the type of workload typically handled by SJOs as a result of several factors, including a decrease in the number of filings statewide, particularly in infractions and small claims, where most of the SJO-appropriate workload is concentrated.³ Several reasons favor broadening the scope of commissioner authority, including:

- The assignment flexibility that commissioners allow the courts;
- The expertise commissioners bring to many case types; and
- The ability of commissioners “to assist judges with routine preliminary matters, thereby freeing the judges for more complex matters.”⁴

In addition, recent rulings have enhanced the need for greater flexibility in fulfilling the duties of magistrates. The Supreme Court in *Missouri v. McNeely* (2013) 133 S.Ct. 1552, for example, ruled that search warrants are required for nonconsensual blood testing during driving under the influence investigations, and that exceptions to the warrant requirement must be determined case by case based on the totality of the circumstances. The ruling has amplified the number of search warrant requests, particularly off-hours requests, resulting in increased workload demands for judges who serve as on-call magistrates on nights and weekends.

Given the decrease in the traditional SJO workload, there is capacity for courts to assign additional duties to commissioners, particularly if those duties have been expanded by statute. Since the duties of magistrates are easily distinguishable from the duties of a judge, this is an area in which commissioner responsibilities could be expanded without causing undue confusion, and would provide opportunities for commissioners who may aspire to become judges in the future to gain experience with various types of judicial duties. In addition, this proposal provides greater flexibility in the use of existing judicial and commissioner resources to increase access to justice while equitably addressing judicial workload concerns.

In this way, the proposal is also responsive to the Governor’s veto message for Senate Bill 229 (Roth, 2015), Funding of Judicial Positions, acknowledging that the need for judges in many courts is acute but indicating that before funding any new positions it would be appropriate to develop a more systemwide approach to balance the workload.

² Judicial Council of Cal., *2015 Court Statistics Report: Statewide Caseload Trends, 2004–2005 Through 2013–2014*, www.courts.ca.gov/12941.htm#id7495.

³ Judicial Council of Cal., *Subordinate Judicial Officers: Update of Conversions Using More Current Workload Data*, August 11, 2015, p.7; www.courts.ca.gov/documents/jc-20150821-itemL.pdf.

⁴ See Judicial Council of Cal., *Subordinate Judicial Officers: Duties and Titles* (July 2002), www.courts.ca.gov/documents/sjowgfinal.pdf, p. 13. The report found that SJOs spent at least 75 percent of their time in criminal cases performing the duties of temporary judges.

Alternatives Considered

The committees alternatively considered amending Penal Code section 808 to provide court commissioners with limited authority to exercise specifically defined magistrate powers and perform magistrate duties. (See Pen. Code, § 646.91(a), (l) [commissioners are included among the judicial officers authorized to issue ex parte emergency protective orders for persons in immediate danger of being stalked]; Pen. Code, § 809 [Santa Clara County Superior Court night-time commissioner is considered a magistrate for the purpose of conducting prompt probable cause hearings for persons arrested without an arrest warrant].) The committees, however, determined that a proposal to include court commissioners as magistrates for all purposes would provide greater flexibility, enhance court efficiencies, and enable courts to more effectively and equitably address workload issues while increasing access to justice.

Implementation Requirements, Costs, and Operational Impacts

Under the proposal, local court leadership would retain discretion to decide the extent of magistrate duties that could be performed by court commissioners. For those courts that choose to incorporate the magistrate role into commissioner duties, potential implementation costs may include commissioner training. Because implementation would be voluntary, however, each court could determine whether potential efficiencies would outweigh implementation costs.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed Penal Code section 808, at page 5

Section 808 of the Penal Code would be amended, effective January 1, 2018, to read:

- 1 **§ 808**
2
3 The following persons are magistrates:
4
5 (a) The judges of the Supreme Court.
6
7 (b) The judges of the courts of appeal.
8
9 (c) The judges of the superior courts.
10
11 (d) Court commissioners.

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Item 2

TCPJAC 2016 Annual Agenda

Trial Court Presiding Judges Advisory Committee (TCPJAC)

Annual Agenda—2016

Approved by E&P: _____

I. ADVISORY BODY INFORMATION

Chair:	Hon. Brian L. McCabe, Presiding Judge of the Superior Court of Merced County
Staff:	Ms. Deirdre Benedict, Leadership Services Division
Advisory Body's Charge: The Trial Court Presiding Judges Advisory Committee contributes to the statewide administration of justice by monitoring areas of significance to the justice system and making recommendations to the Judicial Council on policy issues affecting the trial courts. (Cal Rules of Court, rule 10.46(a)-(b)): (1) Recommend methods and policies within its area of focus to improve trial court presiding judges' access to and participation in council decision making, increase communication between the council and the trial courts, and provide for training programs for judicial and court support staff; (2) Respond and provide input to the Judicial Council, appropriate advisory committees, or Judicial Council staff on pending policy proposals and offer new recommendations on policy initiatives in the areas of legislation, rules, forms, standards, studies, and recommendations concerning court administration; and (3) Provide for liaison between the trial courts and the Judicial Council, its advisory committees, task forces, and working groups, and Judicial Council staff.	
Advisory Body's Membership: <ul style="list-style-type: none">• TCPJAC: Per rule 10.46(c), TCPJAC consists of the presiding judges from the 58 California Superior Courts.• TCPJAC Executive Committee: Consists of 18 members—all presiding judges from the nine counties with 48 or more judges; two presiding judges from counties with 2 to 5 judges; three presiding judges from counties with 6 to 15 judges; and four presiding judges from counties with 16 to 47 judges.	

Subgroups/Working Groups:

- TCPJAC/CEAC Joint Legislation Subcommittee
- TCPJAC/CEAC Joint Rules Subcommittee
- TCPJAC/CEAC Joint Working Group on Court Fees
- TCPJAC/CEAC Joint CLETS Working Group
- TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group
- Ad Hoc TCPJAC/CEAC Joint Court Technology Working Group
- New TCPJAC Working Group on Penal Code 808 Revision

Advisory Body's Key Objectives for 2016:

- Increase legislative and executive branch understanding of trial court operations and funding needs;
- Develop, review, and provide input on proposals to establish, amend, or repeal the California Rules of Court, Standards of Judicial Administration, and forms;
- Develop, review, comment, and make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) bills sponsored by other parties that may impact court administration;
- Review, comment, and make recommendations regarding policies, procedures, standards, projects, and other actions related to the development, maintenance, and enhancement of technological improvements for the trial courts;
- Identify efficient and effective trial court programs and practices that provide greater access to justice;
- Review, comment, and make recommendations on policies, standards, and actions related to the implementation of criminal justice realignment efforts;
- Review, comment, and recommend policies related to acquisition, design, and construction of new court facilities and renovation and maintenance of existing facilities;
- Develop, review, comment, and make recommendations on various Judicial Council task force reports, other studies, and other recommendations aimed at improving court administration; and
- Meet periodically with the Chief Justice, the Judicial Council's Administrative Director and division chiefs regarding matters affecting the operation of trial courts.

II. ADVISORY BODY PROJECTS

#	Project ¹	Priority ²	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
1.	<p>Develop, Review, Comment, and Make Recommendations on Proposed Legislation to Establish New and/or Amend Existing Laws</p> <p>Through the TCPJAC/CEAC Joint Legislation Subcommittee (JLS), monitor proposed and existing legislation that has a significant operational and/or administrative impact on the trial courts.</p> <p>The JLS will also review proposals to create, amend, or repeal statutes to achieve cost savings or greater efficiencies for the trial courts and recommend proposals for future consideration by the Policy Coordination and Liaison Committee (PCLC).</p>	1	<p>Judicial Council Direction:</p> <p>Goal II: Independence and Accountability</p> <p>Objective 2. Partner with other branches and the public to secure constitutional and statutory amendments that will strengthen the Judicial Council’s authority to lead the judicial branch.</p> <p>Objective 3: Improve communication within the judicial branch, with other branches of government, with members of the bar, and with the public to achieve better understanding of statewide issues that impact the delivery of justice.</p> <p>Goal III: Modernization of Management and Administration</p> <p>Objective 4: Uphold the integrity of court orders, protect court user safety,</p>	Ongoing	<p>Comments on proposed legislation and recommendations to PCLC on behalf of TCPJAC and CEAC.</p> <p>Identify high-priority legislative proposals for the trial courts and request PCLC’s consideration of these proposals</p>

¹ All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

² For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

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			<p>and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: California Rule of Court 10.46(b)(2)</p> <p>Resources: Judicial Council and Trial Court Leadership and Governmental Affairs. Subject matter presentation and expertise. Staffing of subcommittee.</p> <p>Key Objective Supported:</p> <p>Develop, review, comment, and make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) bills sponsored by other parties that may impact court administration.</p>		

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2.	<p>Develop, Review, and/or Provide Input on Proposals to Establish, Amend, or Repeal the California Rules of Court, Standards on Judicial Administration, and Forms; Make Recommendations on the Rule Making Process</p> <p>Through the TCPJAC/CEAC Joint Rules Subcommittee (JRS), develop, review, and/or provide input on proposals to establish, amend, or repeal the California Rules of Court, Standards of Judicial Administration, and forms to improve the efficiency or effectiveness of the trial courts.</p> <p>The JRS focuses on those proposals that may lead to a significant fiscal and/or operational impact on the trial courts. Additionally, the JRS makes recommendations to RUPRO concerning the overall rule making process.</p>	1	<p>Judicial Council Direction:</p> <p>Goal II: Independence and Accountability</p> <p>Objective 3: Improve communication within the judicial branch, with other branches of government, with members of the bar, and with the public to achieve better understanding of statewide issues that impact the delivery of justice.</p> <p>Goal III: Modernization of Management and Administration</p> <p>Objective 4: Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Goal VI: Branchwide Infrastructure and Service Excellence</p> <p>Objective 4: Implement new tools to facilitate the electronic exchange of court information while balancing privacy and security.</p>	Ongoing	Comments on proposals concerning rules, standards, forms, and recommendations to RUPRO on behalf of TCPJAC and CEAC

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			<p>Origin of Project: California Rule of Court 10.46(b)(2)</p> <p>Resources: Judicial Council and Trial Court Leadership and Legal Services (LS). Subject matter presentation and expertise. Staffing of subcommittee.</p> <p>Key Objective Supported:</p> <p>Develop, review, and provide input on proposals to establish, amend, or repeal the California Rules of Court, Standards of Judicial Administration, and forms.</p>		
3.	<p>Encourage Cost Savings and Greater Efficiencies for the Trial Courts</p> <p>Through the TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group, continue ongoing maintenance and management of the Innovation Knowledge Center (IKC), focused outreach targeting case types/programs of interest to the branch and the legislature; and ongoing marketing and encouraging use of the IKC.</p>	1	<p>Judicial Council Direction:</p> <p>Goal II: Independence and Accountability</p> <p>Objective 3: Improve communication within the judicial branch, with other branches of government, with members of the bar, and with the public to achieve better understanding of statewide issues that impact the delivery of justice.</p> <p>Goal III: Modernization of Management and Administration</p> <p>Objective 2: Evaluate and improve management techniques, allocation of funds, internal operations, and services; support the sharing of effective management practices branchwide.</p> <p>Objective 4: Uphold the integrity of court orders, protect court user safety,</p>	Ongoing	Maintenance of the online IKC resource pages.

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			<p>and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Directive of the Judicial Council.</p> <p>Resources: Judicial Council and Trial Court Leadership and Information Technology.</p> <p>Key Objectives Supported:</p> <ul style="list-style-type: none"> Increase legislative and executive branch understanding of trial court operations and funding needs. Identify efficient and effective trial court programs and practices that provide greater access to justice. 		
4.	<p>Review and Make Recommendations on Court Technology Proposals and Recommendations.</p>	2	<p>Judicial Council Direction:</p> <p>Goal VI: Branchwide Infrastructure for Service Excellence</p> <p>B. Technology Infrastructure</p>	Ongoing	<p>Input into the development and future adoption of court technology proposals and recommendations that have a direct</p>

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	<p>Through the ad hoc TCPJAC/CEAC Joint Court Technology Working Group, review and provide, on an as-needed basis, early presiding judge and court executive officer input on court technology proposals and recommendations that have a direct impact on court operations.</p>		<p>Policy 1: Encourage and sustain innovation in the use of new information-sharing technologies.</p> <p>Policy 2: Establish a branchwide technology infrastructure that provides the hardware, software, telecommunications, and technology management systems necessary to meet the case management, information-sharing, financial, human resources, education, and administrative technology needs of the judicial branch and the public.</p> <p>Policy 3: Develop and maintain technology strategic plans for the judicial branch that are coordinated with the branch’s technology initiatives and address needs such as business continuity planning and meaningful performance standards.</p> <p>Origin of Project: TCPJAC and CEAC</p> <p>Resources: Judicial Council and Trial Court Leadership, Legal Services and Information Technology. Subject matter presentation and expertise. Staffing of working group.</p> <p>Key Objectives Supported:</p> <p>Review, comment, and make recommendations on policies, standards, and actions related to the development, maintenance, and</p>		<p>impact on court operations.</p>

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			<p>enhancement of technological improvements for the trial courts;</p> <p>Develop, review, comment, and/or make recommendations on various Judicial Council task force reports, other studies, and other recommendations aimed at improving court administration.</p>		
5.	<p>The TCPJAC/CEAC Joint Working Group on Court Fees provides an opportunity for presiding judges and court executive officers to examine the many complex issues associated with courts' practices relating to charging government entities, other courts, and the public for various services and records.</p> <p>The working group will also assess any new and related legislation.</p>	2	<p>Judicial Council Direction:</p> <p>Goal III: Modernization of Management and Administration</p> <p>Objective 4. Uphold the integrity of court orders, protect court user safety, and improve public understanding of compliance requirements; improve the collection of fines, fees, and forfeitures statewide.</p> <p>Origin of Project: TCPJAC and CEAC</p> <p>Resources: Trial Court Budget Advisory Committee, Judicial Council and Trial Court Leadership, Governmental Affairs, Finance, and Legal Services. Subject matter presentation and expertise. Staffing of working group.</p> <p>Key Objectives Supported:</p>	2017	Analysis of related issues and possible recommendations to the Judicial Council; input on related legislation.

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			<p>Develop, review, comment, and/or make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) bills sponsored by other parties that may impact court administration.</p> <p>Develop, review, comment, and/or make recommendations on various Judicial Council task force reports, other studies, and other recommendations aimed at improving court administration.</p>		
6.	<p>Identify Mechanism for Access to Criminal History Information for Guardianship, Conservatorship, and Family Law Child Custody Cases.</p> <p>Through the TCPJAC/CEAC Joint CLETS Working Group, possibly propose changes to the rules of court, possibly propose legislation for Judicial Council sponsorship, and possibly seek related regulatory changes to allow court probate investigators and child custody mediators access to criminal history information for guardianship,</p>	2	<p>Judicial Council Direction: Goal III: Modernization of Management and Administration Objective 2. Evaluate and improve management techniques, allocation of funds, internal operations, and services: support the sharing of effective management practices branch wide. Objective 5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: CEAC (November 6, 2014 business meeting)</p>	2017	Identify a process to access criminal background information for probate investigators and child custody mediators.

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	<p>conservatorship, and family law child custody cases.</p> <p>When this project began in 2014, the focus was on gaining information through the Criminal Law Enforcement, maintained by the Department of Justice (DOJ). The working group is currently exploring other avenues to access criminal background information.</p>		<p>Resources: Judicial Council and Trial Court Leadership, Governmental Affairs, Legal Services, Center for Family, Children & the Courts, possibly the Family and Juvenile Law Advisory Committee, possibly the Probate and Mental Health Advisory Committee, and possibly the Criminal Law Advisory Committee.</p> <p>Key Objective Supported:</p> <p>Develop, review, comment, and/or make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) bills sponsored by other parties that may impact court administration</p>		
7.	<p>Seek Amendment of Rules 2.810 and 10.742 (Pertaining to the Requirement to Report on the Use of Court-Appointed Temporary Judges)</p> <p>The TCPJAC and CEAC recommend (1) the amendment of rule 10.742, to eliminate that rule's reporting requirements concerning the use of court-appointed temporary judges and</p>	2	<p>Judicial Council Direction:</p> <p>RUPRO: Request by RUPRO Chair for rule proposals to achieve cost savings.</p> <p>In the same spirit of Judicial Council Directive 23: E&P recommends that the Judicial Council direct the Administrative Director of the Courts to identify legislative requirements that impose unnecessary reporting or other mandates on the courts and the AOC.</p>	2016	Amendments to rules 2.810 and 10.742

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	<p>(2) the amendment of subdivision (d) of rule 2.810 to delete the related reference to this reporting requirement.</p> <p>Rule 10.742 governs the use of attorneys as court-appointed temporary judges. Subdivision (c) of the rule requires each trial court that uses attorneys as temporary judges to report quarterly to the Judicial Council the number of attorneys used as temporary judges each month, the number and types of cases on which they were used, and whether any of the appointments were made under the exception in rule 2.810(d). This exception allows, in extraordinary circumstances, for appointment of an attorney as a temporary judge who has not met all of the requirements for such appointment.</p> <p>TCPJAC and CEAC recommend these changes because the information that rule 10.742(c) requires courts to report on is in part duplicative of information collected and reported to the council in other reports, and thus the rule places an unnecessary burden on the courts.</p>		<p>Appropriate efforts should be made to revise or repeal such requirements.</p> <p>Origin of Project: Proposal submitted by CEO at the request of Justice Hull (Chair, RUPRO). Subsequently referred by RUPRO to the TCPJAC and CEAC.</p> <p>Resources: Judicial Council and Trial Court Leadership, Legal Services (LS), and Office of Court Research (OCR)</p> <p>Key Objective Supported:</p> <p>Develop, review, and provide input on proposals to establish, amend, or repeal the California Rules of Court, Standards of Judicial Administration, and forms;</p>		

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	<p>This rule proposal was included in the Winter 2015 rule proposal cycle and it was circulated for public comment December 2014 to January 2015. Due to concerns and opposition expressed by commissioners, the Rules and Projects Committee referred the proposal back to TCPJAC and CEAC to further explore the commissioners' concerns. The chairs of TCPJAC and CEAC expect to meet with commissioner representatives in 2016 to discuss their concerns.</p>				
8.	<p>Propose Amending Penal Code Section 808 to include “court commissioners” within the definition of “magistrate.”</p> <p>This proposal was developed at the request of presiding judges to expand the pool of judicial officers who are authorized to perform magistrate duties, provide courts with greater flexibility to equitably address judicial workloads, and increase access to justice.</p>		<p>Judicial Council Direction: Goal III: Modernization of Management and Administration</p> <p>Objective 5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: TCPJAC (March 19, 2015)</p> <p>Resources: Judicial Council and Trial Court Leadership, Criminal Justice Services Office, Governmental Affairs, Legal Services, and the Criminal Law Advisory Committee.</p>	2017	Legislative change to Penal Code Section 808.

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			<p>Key Objective Supported:</p> <p>Develop, review, comment, and/or make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) bills sponsored by other parties that may impact court administration</p>		
9.	<p>Seek Ways to Clarify and Encourage Judicial Involvement in Local Justice Partnerships</p>	2	<p>Judicial Council Direction:</p> <p>Goal II: Independence and Accountability</p> <p>Objective 3: Improve communication within the judicial branch, with other branches of government, with members of the bar, and with the public to achieve better understanding of statewide issues that impact the delivery of justice.</p> <p>Origin of Project: In 2015 members of the Criminal Traffic Working Group of the Futures Commission raised the issue of a perceived lack of judicial involvement in justice partner meetings. The chairs of the Futures Commission think this issue is more appropriate for TCPJAC.</p> <p>Resources: Judicial Council and Trial Court Leadership and Legal Services.</p>	2017	<p>Analysis of related issues, rules of court, and the canons of the California Code of Judicial Ethics; take or recommend actions to clarify and encourage judicial involvement.</p>

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			<p>Key Objective Supported:</p> <p>Identify efficient and effective trial court programs and practices that provide greater access to justice.</p>		
10	<p>Encourage Innovation in Domestic Violence Cases</p> <p>Encourage presiding judges to foster innovation in domestic violence calendars and/or to pilot programs based on current research advances.</p>	2	<p>Judicial Council Direction:</p> <p>Goal III: Modernization of Management and Administration</p> <p>Objective 2. Evaluate and improve management techniques, allocation of funds, internal operations, and services: support the sharing of effective management practices branch wide.</p> <p>Objective 5. Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent, and efficient processing of all types of cases.</p> <p>Origin of Project: Suggested by a TCPJAC member at October 28, 2015 Executive Committee meeting.</p> <p>Resources: Judicial Council and Trial Court Leadership, Center for Family, Children & the Courts, Family and Juvenile Law Advisory Committee.</p> <p>Key Objective Supported:</p> <p>Identify efficient and effective trial</p>	2017	Discussion and sharing of best practices within the presiding judge community.

#	Project ¹	Priority ₂	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			court programs and practices that provide greater access to justice		
11	<p>Serve as a Resource</p> <p>Serve as a subject matter resource for Judicial Council divisions and other council advisory groups to avoid duplication of efforts and contribute to development of recommendations for council action.</p>	2	<p>Judicial Council Direction: Rule 10.46(b)</p> <p>Origin of Project: Respective Judicial Council divisions and council advisory bodies.</p> <p>Resources: Respective Judicial Council divisions and council advisory bodies.</p> <p>Key Objectives Supported: All</p>	Ongoing	Provide input, feedback, data, and/or recommendations to requesting Judicial Council division or council advisory body

III. STATUS OF 2015 PROJECTS:

[List each of the projects that were included in the 2015 Annual Agenda and provide the status for the project.]

#	Project	Completion Date/Status
1	<p>TCPJAC/CEAC Joint Legislation Subcommittee - The TCPJAC/CEAC Joint Legislation Subcommittee remained active throughout 2015 providing review, and, on behalf of the TCPJAC and CEAC, made recommendations on proposed and existing legislation that have a significant operational and/or administrative impact on the trial courts. In 2016, this subcommittee will also meet as needed to review proposals to create, amend, or repeal statutes to achieve cost savings or greater efficiencies for the trial courts and recommend proposals for the future consideration of the Policy Coordination and Liaison Committee (PCLC).</p>	Ongoing
2	<p>TCPJAC/CEAC Joint Rules Subcommittee – Provided review and input on behalf of the TCPJAC and CEAC, submitted comments on rules, standards, and form proposals that may have a significant fiscal and/or operational impact on the trial courts.</p>	Ongoing
3	<p>TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group - Continued ongoing maintenance and management of the Innovation Knowledge Center (IKC), focused outreach targeting case types/programs of interest to the branch and the legislature; and ongoing marketing and encouraging use of the Knowledge Center.</p>	Ongoing
4	<p>TCPJAC/CEAC Joint Court Facilities Subcommittee. – Provided review and input on behalf of TCPJAC and CEAC on several Judicial Council facility-related policies: Water Conservation Policy, Judicial Council Policy on Art Acquisition for Court Facilities, and the Court Public Parking Management Policy.</p>	<p>Subcommittee will sunset in 2016. TCPJAC/CEAC will continue to provide input into the development of court facilities proposals and recommendations that have a direct impact on court operations at the request of the Judicial Council Court Facilities Work Group, the Court</p>

		Facilities Advisory Committee and/or the Trial Court Facility Modification Advisory Committee.
5	TCPJAC/CEAC Joint Technology Subcommittee – Provided review and input on behalf of TCPJAC and CEAC on court technology proposals and recommendations that have a direct impact on court operations. Initiatives reviewed included disaster recovery and next generation hosting assessments, interim case management systems for Sustain Justice Edition (SJE) courts, and a draft security framework manual for trial court information systems controls.	Ongoing
6	TCPJAC/CEAC Joint Working Group on Court Fees – Held a meeting in April 2015 with judicial branch and commercial stakeholders to hear their concerns and recommendations regarding trial courts charging for certain services. The working group was poised to provide input to the Judicial Council’s Governmental Affairs office regarding any legislation that would negatively impact the trial courts in this regard, but none was proposed.	2017
7	CLETS Working Group –The working group met three times in 2015 to discuss judicial access to criminal background information in child custody and visitation (parenting time) proceedings and probate guardianship cases. The working group examined the various statutes and policies that specify in which instances a court is authorized to obtain criminal background information; the avenues available to courts to obtain criminal background information; and any potential areas for improvement and possible solutions.	2017
8	Amend rule 10.620 (Public Access to Administrative Decisions of Trial Courts) – TCPJAC and CEAC recommended the amendment of rule 10.620 to repeal the provisions that apply the rule’s requirements for public notice and input to the decisions of trial courts to close court facilities or reduce the hours of a court location, as these provisions are inconsistent with statutory requirements. Amendments to Government Code section 68106, which took effect on January 1, 2012, created new requirements for public notice and comment when trial courts decide to close court facilities or reduce hours. These requirements are inconsistent with the requirements of rule 10.620, and trial courts have faced confusion in determining how notice is to be provided. The proposed amendments are intended to resolve this confusion, leaving Government Code section 68106 as the sole authority governing decisions to close court facilities or reduce hours. In 2015, the TCPJAC and CEAC reviewed and approved the proposed amendments to this rule as developed by the Joint Rules Subcommittee. The proposal was available for public comment from April to June 2015. The Judicial Council approved the proposed amendments to this rule at its October 2015 business meeting. The amendments became effective on January 1, 2016.	January 2016

9	<p>Revise Procedure for Presiding Judges’ Review and Investigation of Complaints Against Subordinate Judicial Officers (SJOs) At the Judicial Council’s April 17, 2015 meeting, the TCPJAC recommended amending rules 10.603 and 10.703 of the California Rules of Court to (1) simplify the procedures a presiding judge must follow while reviewing and investigating complaints against subordinate judicial officers (SJOs); (2) clarify a presiding judge’s authority in conducting an investigation and determining the appropriate action to be taken; and (3) clarify the circumstances under which discipline against an SJO must be reported to the Commission on Judicial Performance (CJP).</p>	<p>Approved at the Judicial Council’s April 17, 2015 meeting, and took effect on January 1, 2016.</p>
10	<p>Strengthen Role of Presiding Judges in Legislative Outreach The Presiding Judges Legislative Outreach Working Group works with the Judicial Council’s Administrative Director, Governmental Affairs, and Finance, to develop strategy and discussion points for conversations with key members of the legislative and executive branches regarding trial court funding.</p>	<p>In 2015, the Legislative Outreach Committee was disbanded as a formal group; supporting legislative outreach remains a top priority for the TCPJAC</p>
N/A	<p>Amendment of Rules 2.810 and 10.742 (Pertaining to the Requirement to Report on the Use of Court-Appointed Temporary Judges) – The proposed rule change was referred to the TCPJAC/CEAC Joint Rules Subcommittee for review and vetting in 2014. In October and November 2014, the TCPJAC and CEAC reviewed and approved the proposed amendments to this rule as developed by the Joint Rules Subcommittee. This rule proposal was included in the Winter 2015 rule proposal cycle and it was circulated for public comment December 2014 to January 2015. Due to concerns and opposition expressed by commissioners, the Rules and Projects Committee referred the proposal back to TCPJAC and CEAC to further explore the commissioners’ concerns. The chairs of TCPJAC and CEAC expect to meet with commissioner representatives in 2016 to discuss their concerns.</p>	<p>2016</p>

IV. Subgroups/Working Groups - Detail

Subgroups/Working Groups:

TCPJAC/CEAC Joint Rules Subcommittee

This standing subcommittee meets on behalf of the TCPJAC and CEAC to review and provide input on proposals to establish, amend, and/or repeal the California Rules of Court, Standards of Judicial Administration, and Judicial Council forms. As necessary, the subcommittee will refer matters to the TCPJAC and/or CEAC that the members determine need broader consideration. The subcommittee convenes throughout the year by conference call to review proposals and evaluate the fiscal/operational impact of proposals on the trial courts.

Number of members: 12

Number of advisory group members: The TCPJAC has six (6) members participating in the TCPJAC/CEAC Joint Rules Subcommittee.

Number and description of additional members (not on this advisory group): In addition to the members from TCPJAC, there are six (6) other members of the TCPJAC/CEAC Joint Rules Subcommittee from the Court Executives Advisory Committee (CEAC).

Date formed: 2001

Number of meetings or how often the group meets: The subcommittee meets by conference call approximately 7 times a year.

Ongoing

TCPJAC/CEAC Joint Legislation Subcommittee

This standing subcommittee meets on behalf of the TCPJAC and CEAC to review, comment, and make recommendations on proposed legislation to establish new and/or amend existing laws including: 1) draft proposals for council-sponsored legislation; 2) draft proposals from other advisory committees for legislation; and 3) review and comment on bills sponsored by other parties that may impact court administration. As necessary, the subcommittee will refer matters to TCPJAC and/or CEAC that the members determine need broader consideration. The subcommittee convenes throughout the year by conference call. In 2016, this subcommittee will also meet as needed to review proposals to create, amend, or repeal statutes to achieve cost savings or greater efficiencies for the trial courts and recommend proposals for the future consideration of the Policy Coordination and Liaison Committee (PCLC).

Number of members: 20

Number of advisory group members: The TCPJAC has ten (10) members participating in the TCPJAC/CEAC Joint Legislation Subcommittee.

Number and description of additional members (not on this advisory group): In addition to the members from TCPJAC, there are ten (10) other members of the TCPJAC/CEAC Joint Legislation Subcommittee from the Court Executives Advisory Committee (CEAC).

Date formed: 2001

Number of meetings or how often the group meets: The working group meets via conference call every three –four weeks about two weeks prior to each PCLC meeting, and as issues spring up.

Ongoing

Ad hoc TCPJAC/CEAC Joint Court Technology Working Group

The ad hoc TCPJAC/CEAC Joint Court Technology Working Group serves as a resource to the Judicial Council Technology Committee (JCTC) and the Information Technology Advisory Committee (ITAC). Through this ad hoc working group, TCPJAC and CEAC will provide comment and input on technology policy recommendations when necessary and at a stage where input can be thoughtfully considered.

Number of members: 8

Number of advisory group members: The TCPJAC has four (4) members participating in the TCPJAC/CEAC Joint Court Technology Subcommittee.

Number and description of additional members (not on this advisory group): In addition to the four members from TCPJAC, there are four (4) other members of the TCPJAC/CEAC Joint Court Technology Subcommittee from the Court Executives Advisory Committee (CEAC).

Date formed: 2015 (formerly a standing subcommittee)

Number of meetings or how often the group meets: As needed.

Ongoing

TCPJAC/CEAC Joint Working Group on Court Fees

The working group provides an opportunity for presiding judges and court executive officers to examine the many complex issues associated with courts' practices relating to charging government entities, other courts, and the public for various services and records. The working group will also assess any new and related legislation.

Number of advisory body members on the subgroup or working group: The TCPJAC has four (4) members participating in the TCPJAC/CEAC Joint Working Group on Court Fees.

Number and description of additional members (not on this advisory body): In addition to the four members from TCPJAC, there are four (4) other members of the TCPJAC/CEAC Joint Working Group on Court Fees from the Court Executives Advisory Committee (CEAC).

Date formed: November 7, 2014

Number of meetings or how often the subgroup or working group meets: The working group will probably need to meet by conference call approximately 3 times a year in 2016 and possibly in-person again.

2017

TCPJAC/CEAC Joint CLETS Working Group

Purpose of subgroup or working group: Through the TCPJAC/CEAC Joint CLETS Working Group, the TCPJAC and CEAC will work to develop proposed rule of court changes, proposed legislation for Judicial Council sponsorship, will seek related regulatory changes to allow court probate investigators and child custody mediators access to criminal history information for guardianship, conservatorship, and family law child custody cases.

Number of advisory body members on the subgroup or working group: The TCPJAC has three (3) members participating in the TCPJAC/CEAC Joint CLETS Working Group.

Number and description of additional members (not on this advisory body): In addition to the three members from TCPJAC, there are three (3) other members of the TCPJAC/CEAC Joint CLETS Working Group from the Court Executives Advisory Committee (CEAC).

Date formed: 2015

Number of meetings or how often the subgroup or working group meets: It is estimated that the working group will meet by conference call approximately 5 times a year. An in-person meeting may also be required.

2017

TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group

Purpose of subgroup or working group: Continue ongoing maintenance and management of the Innovation Knowledge Center (IKC), focused outreach targeting case types/programs of interest to the branch and the legislature; and ongoing marketing and encouraging use of the IKC.

Number of advisory body members on the subgroup or working group: No current TCPJAC members are on the group, they are brought in on an ad hoc basis, when needed.

Number and description of additional members (not on this advisory body): The CEAC has four (4) members participating in the TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group

Date formed: 2015 (formerly the TCPJAC/CEAC Joint Trial Court Efficiencies Working Group)

Number of meetings or how often the subgroup or working group meets: The TCPJAC/CEAC Joint Trial Court Efficiencies Vetting Group conducts its work by e-mail.

Ongoing

TCPJAC Penal Code 808 Working Group

The TCPJAC Penal Code 808 Working Group will work with the Criminal Justice Services Office, Legal Services, and Governmental Affairs to propose an amendment to Penal Code 808 to include “court commissioners” to the definition of “magistrate” to expand the pool of judicial officers who are authorized to perform magistrate duties, provide courts with greater flexibility to equitably address judicial workloads, and increase access to justice.

Number of members: 3

Number of advisory group members: The TCPJAC has 3 members participating in the TCPJAC Penal Code 808 Working Group.

Date formed: 2015

Number of meetings or how often the group meets: It is estimated that the subcommittee will meet by conference call approximately 2-3 times.

2017