

**JUDICIAL COUNCIL MEETING**  
**May 16, 1997**

The Judicial Council of California meeting began at 8:15 a.m. on Friday, May 16, 1997, at the Holiday Inn in Auburn, California, on the call of Chief Justice Ronald M. George, chair.

**Judicial Council members present:** Chief Justice Ronald M. George; Justices Roger W. Boren, Richard D. Huffman, and Arthur G. Scotland; Judges Paul Boland, J. Richard Couzens, Albert Dover, Brenda Harbin-Forte, Lois Haight, Melinda A. Johnson, Jon M. Mayeda, Risë Jones Pichon, Eleanor Provost, and Kathryn D. Todd; Mr. Maurice Evans, Mr. Harvey I. Saferstein, Ms. Glenda Veasey, and Mr. Brian C. Walsh; and **advisory members:** Ms. Sheila Gonzalez, Mr. Joseph A. Lane, Mr. Stephen V. Love, Hon. William F. McDonald, Mr. Ronald Overholt, and Hon. Nori Anne Walla.

**Absent:** Justice Marvin R. Baxter, Senator John Burton, Assembly Member Martha Escutia.

**Others present included:** Mr. William C. Vickrey; Justice Richard Aldrich; Judges Leonard Edwards, Susan Harlan, Thomas Nuss, Elaine Watters; Mr. Alan Carlson, Ms. Beth Jay, Mrs. Richard Huffman, Mr. Curtis Karnow, Mr. Clark Kelso, Mr. Bill Poos, Ms. Lynn Toms; **staff:** Ms. Martha Amlin, Mr. Paul Baker, Mr. Michael Bergeisen, Mr. Scott Beseda, Ms. Juliet Briskin, Ms. Penny Davis, Mr. Michael Fischer, Ms. Jessica Fiske, Ms. Denise Friday, Mr. Carl Gibbs, Ms. Lynn Holton, Ms. Kate Howard, Ms. Carol Izumikawa, Mr. Dennis Jones, Ms. Martha Kilbourne, Mr. Ray LeBov, Ms. Catherine Lowe, Mr. Ben McClinton, Ms. Lynn McLure, Ms. Linda McCulloh, Mr. Martin Moshier, Ms. Judith Myers, Mr. George Nielsen, Ms. Diane Nunn, Ms. Nzinga Nyagua, Mr. Jon Plessler, Ms. Kathleen Sikora, Ms. Dale Sipes, Ms. Shelley Stump, Mr. John Toker, Ms. Arline Tyler, Mr. Anthony Williams, Mr. Jerry Yalon, Ms. Edna Yee, and Ms. Pat Yerian; **media representatives:** Mr. David Kline, *Los Angeles Metropolitan News Enterprise*, Mr. Mike Lewis, *Los Angeles Daily Journal*, and Mr. Tom Nadeau, *Daily Recorder* (Sacramento).

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Agenda Reports and Recommendations dated May 16, 1997, which was sent to members in advance of the meeting.)

*Special comment:* Chief Justice George indicated that he would have to leave the meeting early to attend an Academy of Appellate Lawyers conference. He indicated that Justice Scotland would chair the meeting in his absence.

**Tab A            Minutes of the February 20, 1997, Meeting**

*Council action:*

Upon a motion made by Justice Scotland, the Judicial Council approved the minutes of the February 20, 1997, meeting.

The motion passed.

**Tab B            Judicial Council Committee Presentations**

• **Executive and Planning Committee Report**

Justice Scotland reported that the Executive and Planning Committee had met three times, including twice by conference call, since the last Judicial Council meeting. The committee reviewed the agenda for this council meeting and began the process of filling impending vacancies on the Judicial Council and its advisory committees.

Justice Scotland noted that the committee will be forwarding names of candidates to fill vacancies on the Civil and Small Claims Advisory Committee resulting from the elevations of Judges Neal and Coffee. He also reported that the first of two visits to courts by council members has been scheduled and urged council members to volunteer to participate in them.

• **Policy Coordination and Liaison Committee Report**

Justice Boren presented the report on behalf of Justice Baxter. Justice Boren stated that the committee had met seven times since the last Judicial Council meeting: six times by conference call and in Auburn on May 15, 1997.

At its March and April meetings, the Policy Coordination and Liaison Committee (PCLC) took positions on 68 bills relating to civil and criminal procedure, domestic violence, family law, juries, juvenile delinquency and dependency, mediation, probate, small claims, and traffic. The status of some of the key bills the council is sponsoring is as follows:

### *Civil and Small Claims*

AB 1374 authorizes courts to send cases to mediation where the amount in controversy is over \$50,000. Authored by Assembly Member Hertzberg, this bill was prompted by the extraordinary success of the mediation pilot project currently under way for cases where the amount in controversy is less than \$50,000. AB 1374 successfully passed out of the Assembly Policy and Fiscal Committees on bipartisan votes and is pending on the Assembly floor.

### *Family Law*

AB 1526, by Assembly Member Escutia, which clarifies the role of counsel appointed to represent a child in a family law proceeding, passed the Assembly Judiciary Committee. The bill permits the court to request counsel to prepare a written report setting forth the results of counsel's investigation and the facts that bear on the child's best interest. At the request of the family law bar, the bill was amended prior to the Assembly Judiciary Committee hearing to rename the report a "statement of issues and contentions." AB 1526 will be heard by the full Assembly soon.

### *Court Interpreters*

AB 1445, by Assembly Member Shelley, is sponsored by the council at the request of the Court Interpreters Advisory Committee. It makes it a crime for individuals to falsely represent themselves as certified court interpreters. The Assembly Appropriations Committee amended the bill so that commitment of the crime results in an infraction rather than a misdemeanor. The bill is expected to be placed on the Assembly's consent calendar and then forwarded to the Senate.

### *Jury Reform*

SB 14, by Senator Calderon, the Judicial Council-sponsored jury reform legislation, passed out of the Senate Judiciary Committee. To garner the necessary votes in the committee, some of the more controversial proposals were removed from the bill. As amended, and beginning with the second day of jury service, SB 14 would:

- Increase juror fees from \$5 to \$16 per day to offset the cost of meals, travel, and other incidental expenses;
- Reimburse jurors for parking;
- Reimburse jurors traveling more than 50 miles to the court at the rate of 28 cents per mile for each mile actually traveled one way to attend court as a juror; and
- Reimburse a juror who is unemployed and demonstrates financial hardship for the actual, reasonable expenses of licensed child care.

### *Trial Court Funding*

Recently, AB 233, by Assembly Members Escutia and Pringle, and AB 1438, by Assembly Member Escutia, passed the Assembly. AB 233 would enact a system of long-term state trial court funding; AB 1438 references California Rules of Court adopted by the Judicial Council governing labor relations policies and procedures in the trial courts. Both bills now head to the Senate.

SB 9, by Senator Lockyer, which would also restructure long-term court funding, passed the Senate Judiciary Committee. The bill was amended to address labor relations policies and procedures in the trial courts by rules of court rather than by statute. SB 9 will be heard next in the Senate Appropriations Committee.

The Senate and Assembly Budget Subcommittees have met to consider the Judicial Council and trial court funding budgets. The Assembly approved the trial court funding budget as submitted. The Senate will consider the funding requests in the near future.

#### • **Rules and Projects Committee Report**

Judge Boland reported that the committee had met four times since the last Judicial Council meeting. He noted that the Rules and Projects Committee favors the implementation of changes by policy directions and education *before* standards of judicial administration are approved, rules of court are adopted, and legislation is supported. In applying that approach, RUPRO considers council precedent, fiscal implications, impact upon the exercise of judicial discretion, local independence in areas of court management, and a variety of other factors.

Judge Boland reported that, with the help of consultant Professor Bryan Garner, who served as the consultant on the revision of the Federal Rules, the council has embarked on a project to reorganize, restructure, and rewrite the California Rules of Court and Standards of Judicial Administration for the purposes of improving accessibility and increasing clarity. The project involves three phases:

- Phase 1 (nearly completed): revisions to internal council rules;
- Phase 2 (beginning in June): revisions to appellate rules; and
- Phase 3: revisions to the remaining rules and standards. Commencement of the third phase will coincide with the charge given to each advisory committee to examine within its purview the content of rules and standards and to determine whether repeal or modification is appropriate or whether legislation is necessary.

The council's professional staff will work with Professor Garner to establish a special committee to help him resolve issues as they arise and to develop a training

program for the professional staff and advisory committee members involved in the drafting of rules and standards. In addition, RUPRO may propose that Professor Garner make a presentation to the council in the future.

Judge Boland stated that in its recently assigned project-review role, RUPRO asked each advisory committee and task force to outline its current and future projects, its reasons for undertaking any new project, and each project's commencement and completion dates. RUPRO also reviewed the detailed work plans of each of the 12 advisory committees and task forces required to submit plans. RUPRO's review determined if the projects were compatible with the council's strategic plan and general policy direction, consistent with the charge given to the committee or task force, and realistic and budgetarily feasible.

Judge Boland reported that RUPRO's review of the Jury Instruction Task Force work plan revealed a potential for serious conflict between the Judicial Council and the Los Angeles County Superior Court owing to a contractual and financial relationship between the court and West Publishing, which owns the copyright to publish the existing standardized jury instructions. Task force and council representatives are meeting with Los Angeles County Superior Court representatives to discuss the possibility of forging a cooperative relationship to simplify jury instructions.

Judge Boland also stated that in response to the council direction given in March 1997, Justices Norman Epstein and Richard Aldrich are convening a group of bench and bar experts in June to address the issue of the need and scope of council involvement in the area of civil discovery reform.

**COUNCIL ITEMS 1 – 15 WERE APPROVED BY A SINGLE MOTION AS CONSENT ITEMS, PER EACH OF THE SUBMITTERS' RECOMMENDATIONS, WITH THE FOLLOWING CHANGES:**

- Item 3: change rule 1281.1 to rule 1280.1 in recommendation 2 on page 6 and in the rule on page 8, line 20, in the council binder; and
- Item 14: delete "by a preponderance of the evidence" in rule 1456 on page 12, line 18, in the council binder.

**Item 1            Oversight Committee for the California Drug Court Project:  
Approval of Interim Guidelines for Drug Courts in California**

The Oversight Committee for the California Drug Court Project recommends that the guidelines of the National Association of Drug Court Professionals (NADCP) be approved for California drug courts. The NADCP guidelines provide a definition of, and elaborate purpose and performance criteria in, key areas for drug courts.

*Council action:*

The Judicial Council approved the guidelines of the National Association of Drug Court Professionals (NADCP), *Defining Drug Courts: The Key Components*, as interim guidelines for evaluation purposes for drug court mini-grants administered by the Administrative Office of the Courts.

**Item 2            Trial Court Coordination Advisory Committee: *Annual Report to the  
Legislature on Coordination Activities (Through March 31, 1997,  
with Expenditure and Revenue Data for Fiscal Year 1995–96)***

The Trial Court Realignment and Efficiency Act originally required each court to submit a coordination plan to the Judicial Council and to achieve mandated savings goals over a three-year period. Further, pursuant to Government Code section 68113, the council is required to forward an annual report to the Legislature setting forth reported revenues and expenditures and relating trial court coordination activities. This report reflects coordination activities in the California trial courts from July 1, 1995, through March 31, 1997, and expenditure and revenue data reported for fiscal year 1995–96.

*Council action:*

The Judicial Council:

- (1) Approved the *Annual Report to the Legislature on Coordination Activities* through March 31, 1997, with expenditure and revenue data for fiscal year 1995–96;
- (2) Directed the Administrative Office of the Courts to forward the report to the California Legislature; and
- (3) Directed the Administrative Office of the Courts to forward a supplemental status report to the California Legislature on trial court coordination activities that includes a summation of the statewide coordination review process to date.

**Item 3      Family Law Rules and Forms (Rules 1280, 1280.1, 1280.2, 1280.3, 1280.4, 1285.30, 1285.31, 1285.32, 1285.33, 1285.62, 1285.625, 1285.65, 1298.04, 1298.07, 1298.30, 1299.01, 1299.04, 1299.05, 1299.07, 1299.10, 1299.13, 1299.16, 1299.17, 1299.19, 1299.22, 1299.25, 1299.28, 1299.40, 1299.43, 1299.46, 1299.49, 1299.52)**

The Family and Juvenile Law Advisory Committee recommends adoption of new and modified forms and rules primarily to implement Statutes 1996, chapter 957 (AB 1058 (Speier)). The forms and rules were considered by the Family Law Subcommittee of the Family and Juvenile Law Advisory Committee.

*Council action:*

The Judicial Council adopted, effective July 1, 1997, the following new rules and new and amended forms:

- (1) Rule 1280 — Purpose, authority, and definitions;
- (2) Rule 1280.1— Hearing of matters by a judge under Family Code sections 4251(a) and 4252(b)(7);
- (3) Rule 1280.2 — Use of existing family law forms;
- (4) Rule 1280.3 — Memorandum of points and authorities;
- (5) Rule 1280.4 — State Bar Number and District Attorney Name;
- (6) Rule 1285.30 — Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support;
- (7) Rule 1285.31 — Information Sheet – Simplified Way to Change Child, Spousal, or Family Support;
- (8) Rule 1285.32 — Responsive Declaration to Motion for Simplified Modification of Order for Child, Spousal, or Family Support;
- (9) Rule 1285.33 — Information Sheet – How to Oppose a Request to Change Child, Spousal, or Family Support;
- (10) Rule 1285.62 — Declaration of Support Arrearage;
- (11) Rule 1285.625 — Declaration of Support Arrearage;
- (12) Rule 1285.65 — Ex Parte Application for Wage and Earnings Assignment Order;
- (13) Rule 1298.04 — Declaration and Request for Order and Order (Support Enforcement and Earnings Assignment) (Governmental);
- (14) Rule 1298.07 — Order After Hearing (Governmental);
- (15) Rule 1298.30 — Statement for Registration of Foreign Support Order (Governmental);

- (16) Rule 1299.01 — Summons and Complaint, or Supplemental Complaint Regarding Parental Obligations and Statement of Rights and Responsibilities (Governmental);
- (17) Rule 1299.04 — Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental);
- (18) Rule 1299.05 — Information Sheet for Service of Process (Governmental);
- (19) Rule 1299.07 — Stipulation for Judgment or Supplemental Judgment;
- (20) Rule 1299.10 — Request to Enter Default Judgment (Governmental);
- (21) Rule 1299.13 — Judgment Regarding Parental Obligations (Governmental);
- (22) Rule 1299.16 — Notice of Entry of Judgment and Certificate of Service by Mail (Governmental;)
- (23) Rule 1299.17 — Declaration for Amended Proposed Judgment (Governmental);
- (24) Rule 1299.19 — Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income and Proposed Answer (Governmental);
- (25) Rule 1299.22 — Stipulation and Order (Governmental);
- (26) Rule 1299.25 — Notice of Wage and Earnings Assignment (Governmental);
- (27) Rule 1299.28 — Request for Hearing Regarding Notice of Wage and Earnings Assignment (Governmental);
- (28) Rule 1299.40 — Request for Judicial Determination of Support Arrearages (Governmental);
- (29) Rule 1299.43 — Notice of Opposition and Notice of Motion on Claim of Exemption (Governmental);
- (30) Rule 1299.46 — Order Determining Claim of Exemption or Third Party Claim (Governmental);
- (31) Rule 1299.49 — Notice to District Attorney of Intent to Take Independent Action to Enforce Support Order (Governmental); and
- (32) Rule 1299.52 — Response of District Attorney to Notice of Intent to Take Independent Action to Enforce Support Order (Governmental).



**Item 4      Amendments to Domestic Violence Forms (Rules 1295.90, 1296(A))**

The Family Violence Subcommittee of the Family and Juvenile Law Committee proposes amendments to the following two forms:

- *Instruction Booklet for Obtaining Restraining Orders to Prohibit Domestic Violence* (rule 1296(A)); and
- Emergency Protective Order (CLETS) (rule 1295.90).

*Council action:*

The Judicial Council, effective July 1, 1997, amended the following forms (adopted as rules of court) to conform to statutory changes and to increase the effectiveness with which courts administer domestic violence cases:

- (1) *Instruction Booklet for Obtaining Restraining Orders to Prohibit Domestic Violence* (rule 1296(A)); and
- (2) Emergency Protective Order (CLETS) (rule 1295.90).

**Item 5      Judicial Branch Statistical Information System (JBSIS) Reporting Requirements (Rule 996)**

In response to continuous and serious problems related to inadequate statistical data about the work of the judicial branch, the Administrative Director of the Courts, in October 1995, asked the Court Administrators Advisory Committee to study current Judicial Council statistical reporting requirements and make recommendations for the development of a revised judicial branch statistical information methodology. The committee prepared a report, adopted by the Judicial Council in October 1996, calling for the establishment of the Judicial Branch Statistical Information System (JBSIS), which includes an outline of relevant policies and a timeline for implementation.

The Court Administrators Advisory Committee recommends adoption of a rule of court to further clarify the responsibilities of the trial courts in relation to the JBSIS. The rule requires the trial courts to collect information and report to the Judicial Council as set forth in the *JBSIS Manual*. The manual will be presented to the Judicial Council for approval in February 1998. The rule also requires courts to develop plans to implement JBSIS requirements by July 1, 1998, and actual usage of a JBSIS-compliant case management system by January 1, 2000.

*Council action:*

The Judicial Council, effective January 1, 1998, adopted rule 996 to establish the Judicial Branch Statistical Information System (JBSIS) and to require courts to collect information and report to the Judicial Council as set forth in the *JBSIS Manual*; and amended the heading to Division V of Title III of the California Rules of Court to better reflect the division's contents.

## **Item 6      Report and Plan Relating to the Trial Court Performance Standards**

In response to direction from the Judicial Council at its November 1996 meeting, the Trial Court Presiding Judges and Court Administrators Advisory Committees proposed an action plan to broaden understanding of performance standards among members of the judiciary and court administration.

### *Council action:*

The Judicial Council:

- (1) Approved the report and plan relating to the trial court performance standards to include a two-day workshop in late August 1997 and to encourage interested trial courts to serve as demonstration sites;
- (2) Requested that the Trial Court Presiding Judges and Court Administrators Advisory Committees report back to the Judicial Council at its October or November 1997 meetings on how best to implement the performance standards in California;
- (3) Approved devoting a portion of the Judicial Administration Conference, scheduled for February 1998, to the performance standards; and
- (4) Approved incorporating the performance standards into Mid-Level Management Workshops, tentatively scheduled for May and June 1998.

**Item 7            Amendments to Appellate Rules (Rules 14, 16(b),  
28(e), 55, 105(f), 978, 979)**

The Appellate Advisory Committee recommends changes to the following rules:

*Amendment to rule 28(e)*

Currently, rule 28(e) requires that all copies of a petition for review include a copy of the decision of the Court of Appeal. California appellate defense counsel suggested that this requirement should apply only to the copies filed with the Supreme Court. The parties who are served with the petition, including the Court of Appeal, already have a copy of the decision of the Court of Appeal. The Appellate Advisory Committee recommends amending rule 28(e) to specify that only those copies of a petition for review filed with the Supreme Court need include a copy of the decision of the Court of Appeal.

*Amendments to rules 14, 978, and 979*

Currently, an applicant who seeks to file an amicus brief in the Supreme Court must state “the nature of the applicant’s interest.” (Cal. Rules of Court, rule 14(b).) However, there is no such requirement for those seeking to file an amicus brief in the Court of Appeal (rule 14(c)) or those requesting that an opinion be published or depublished. (Cal. Rules of Court, rules 978 and 979.) The amendments would require that applicants seeking to oppose or support the granting of a petition for review, or requesting publication or depublication of an opinion, state the nature of their interest.

*Amendment to rule 55*

Trial courts are currently allowed to store records in forms other than paper under Government Code section 68150. The proposed amendment incorporates by reference relevant portions of section 68150, thus allowing the appellate courts to use the same means for storing records that the trial courts use.

*Amendment to rules 16(b) and 105(f)*

Rule 16(b) currently requires that a copy of every appellate brief be deposited with the clerk of the superior court “for delivery to the judge who presided at the trial of the case.” The amendment would clarify that the copy of the brief served on the clerk for delivery to the trial judge need not be kept in the court file. Rule 105(f) applies to appeals from the municipal court.

*Council action:*

The Judicial Council amended, effective July 1, 1997, rules 14, 16(b), 28(e), 55, 105(f), 978, and 979.

**Item 8            Service of Papers on a Clerk When a Party’s Address Is Unknown (Rules 202.5, 504)**

The Civil and Small Claims Advisory Committee recommends amendments to several rules that would correct a problem that occurs when notices and other papers are served on the clerk of the court, under Code of Civil Procedure section 1011(b), when a party’s residence address is unknown.

*Council action:*

The Judicial Council adopted, effective July 1, 1997, rules 202.5 and 504, to facilitate delivery of notices or other papers to the clerk of the court or the judge, if there is no clerk, for a party whose residence address is unknown.

**Item 9            Order on Application for Waiver of Court Fees and Costs, Order on Application for Waiver of Additional Court Fees and Costs, and Information Sheet on Waiver of Court Fees and Costs— Amendments to Forms 982(a)(18), 982(a)(18.1), and 982(a)(A)**

The Civil and Small Claims Advisory Committee recommends that the present provisions of item 3d on forms 982(a)(18) and 982(a)(18.1) be deleted, and in place of those provisions, that the court be authorized to examine the applicant’s financial status no sooner than four months from the date of the order, and not more than once every four months, consistent with the time period in Government Code section 68511.3 and California Rules of Court, rule 985(g). The Civil and Small Claims Advisory Committee believes that this substitute language will permit the court to reasonably monitor waivers of court fees and costs.

*Council action:*

The Judicial Council:

- (1) Effective July 1, 1997, revised forms 982(a)(18) and 982(a)(18.1) by deleting the present provisions in item 3d and substituting a provision authorizing the examination of the financial status of the litigant no sooner than four months from the date of the order waiving court fees and costs or the order waiving additional court fees and costs and not more than once in any four-month period; and
- (2) Effective immediately, revised the Information Sheet on Waiver of Court Fees and Costs, Form 982(a)(A), to reflect 1997 increases in the federal poverty guidelines.

#### **Item 10      Service by Facsimile (Rule 2008)**

It has been reported that some attorneys are deleting some fax transmission information, causing problems for recipients. The Civil and Small Claims Advisory Committee has drafted amendments to rule 2008 stating that service of papers by fax is ineffective if the transmission does not fully conform to the rule.

*Council action:*

The Judicial Council, effective July 1, 1997, amended rule 2008, by adding subdivision (e)(5), stating that service of papers by fax is ineffective if the transmission does not fully conform to the rule and include a facsimile transmission cover sheet, as provided in rule 2009, and by conforming subdivision (d), concerning when service by fax is complete.

#### **Item 11      New Statewide Notice to Appear for Violations Recorded by an Automated Traffic Enforcement System (Form CR-115)**

Recent legislation permits local law enforcement agencies to use an “automated enforcement system” to issue citations for traffic signal violations at intersections and railroad crossings. (Stats. 1995, ch. 922.) These automated enforcement programs will rely on photographs to record “the vehicle’s license plate and the driver of the vehicle.” (Veh. Code, § 210.) The citation, which must be issued on a Notice to Appear form approved by the Judicial Council, will be mailed to the registered owner of the vehicle. The Traffic Advisory Committee recommends adoption of the Notice to Appear form (Form CR-115).

*Council action:*

The Judicial Council adopted for statewide use, effective May 16, 1997, the Notice to Appear—Automated Traffic Enforcement (Form CR-115).

**Item 12      Sealing Juror-Identifying Information in the Record on Appeal  
(Code Civ. Proc., § 237—Rule 33.6)**

The Appellate Advisory Committee recommends a new rule instructing court clerks and reporters on how to prepare the record on appeal in compliance with Code of Civil Procedure section 237. Section 237 requires that juror-identifying information be sealed after the verdict in a criminal case. The rule requires that numbers be substituted for juror names in the appellate record.

*Council action:*

The Judicial Council adopted, effective July 1, 1997, rule 33.6, concerning sealing of juror information in the record on appeal as required by Code of Civil Procedure section 237.

**Item 13      Corrections to Rules on Certification of the Record in Death  
Penalty Cases (Rules 39.54, 39.55)**

The Appellate Advisory Committee recommends correction of a drafting error in the rules on certification of the record in death penalty cases, which were adopted by the Judicial Council effective March 1, 1997.

*Council action:*

The Judicial Council amended, effective May 16, 1997, rules 39.54 and 39.55 to correct a drafting error in the rules on certification of the record in death penalty cases.

**Item 14 Rules, Standards, and Form Applicable to Juvenile Court Proceedings (Rules 1401, 1423, 1450, 1456, 1458, 1459, 1460, 1461, 1462, 1463, 1465; Cal. Standards Jud. Admin., § 24.5; and Form JV-125); and Technical Corrections to Court-Appointed Special Advocate (CASA) Program Grants**

The Juvenile Law Subcommittee of the Family and Juvenile Law Advisory Committee proposes (1) amendments to rules 1401, 1423, 1450, 1456, 1458, 1459, 1460, 1461, 1462, 1463, and 1465; (2) a new standard of judicial administration, section 24.5, on the use of resource guidelines for child abuse and neglect cases; (3) technical revisions to the form Conviction of Another Child's Death (JV-125); and (4) technical corrections to CASA program grants. Included are suggested changes of the Rules and Projects Committee.

*Council action:*

Effective July 1, 1997, the Judicial Council:

- (1) Amended rules 1401, 1423, 1450, 1456, 1458, 1459, 1460, 1461, 1462, 1463, and 1465 to conform to recent statutory changes and to clarify procedures;
- (2) Added California Standards of Judicial Administration, section 24.5, on resource guidelines for child abuse and neglect cases, to encourage judges and courts to implement the resource guidelines of the National Council of Juvenile and Family Court Judges, entitled "Resource Guidelines Improving Court Practice In Child Abuse & Neglect Cases";
- (3) Renamed the form Conviction of Another Child's Death (JV-125) to Caused Another Child's Death (JV-125), and revised the form to conform to recent statutory changes to Welfare and Institutions Code section 300(f); and
- (4) Effective January 29, 1997, nunc pro tunc approved the technical correction to the Sacramento and Mendocino Court-Appointed Special Advocate (CASA) grant awards, making the awards \$17,500 each.

**Item 15 Changing the Dates Advisory Committee Members Begin and End Their Terms (Rule 1020(e))**

Staff proposes that rule 1020(e) be amended to change the terms of advisory committee members so that they begin on November 1 and end on October 31 (instead of January 1 to December 31).

The change will allow all advisory committee members, including new members and chairs, to participate fully in the strategic planning process that determines the work plan of the committee. The new terms will permit advisory committee members to serve terms that more closely match the action cycles of the Judicial Council.

*Council action:*

The Judicial Council amended rule 1020(e) to specify that terms of advisory committee members begin on November 1 and end on October 31 (instead of January 1 to December 31).

**Item 16 Final Report of the Business Court Study Task Force**

Justice Richard Aldrich and Professor Clark Kelso presented the report, assisted by Ms. Linda McCulloh of AOC staff. Justice Aldrich noted that in March 1996, the Judicial Council established a Business Court Study Task Force to study the need and feasibility of establishing a special court in California to handle business and commercial cases. This was in response to concerns raised by the business community that judges did not have the necessary expertise to handle business law, especially in complex cases.

The task force embarked on a comprehensive study of the efficiency and fairness of the current system of adjudicating business disputes and to address the perception that litigants would be better served by the creation of a business court or department. The study included surveys of business lawyers and judges. Survey results indicated that the State Bar and trial bar did not support the establishment of a business court and the Legislature and judiciary supported the concept only modestly.

Based on the results of the study, the task force does not recommend the establishment of a business court. Instead, it recommends the establishment of a Complex Case Management Task Force. Justice Aldrich noted that the recommendations of the Business Court Study Task Force include early judicial intervention in complex cases, alternative dispute resolution, the matching of case assignments with judicial expertise and preference, and education on complex case management. RUPRO approves of the proposal and requests that the Center for Judicial Education and Research (CJER), in developing a complex civil litigation curriculum and programs, consult with the committee or task force that will implement the recommendations of the Business Court Study Task Force.



Judge Dover stated that the ascendancy and expansion of private judging were a result of the business community's beliefs that its concerns were not being met by the public court system. Justice Aldrich noted that the task force had discussed the issue and concluded that delay reduction has helped reduce the time a case takes to move through the system and that the perceptions regarding the connection between the expansion of private judging and the dissatisfaction of the business community with the public court system was not borne out by empirical data.

Judge Dover commented that the business community is the client to be concerned with rather than trial lawyers and others who oppose the establishment of a business court. He stated that the question is not whether the idea is feasible, which is a political issue, but whether the council and courts are failing to serve this important client. Judge Dover voiced his support for a business court pilot project to parallel implementation of the task force's recommendations.

Chief Justice George asked whether modest support in the judiciary for the business court also applied to complex case panels. Justice Aldrich replied that there is more support in the judiciary for the establishment of a complex case specialization.

Justice Boren commented that support in the business community for a business court should not be the impetus for the establishment of a special court. Many communities would like a special court.

Ms. Gonzalez suggested that the task force consider having retired judges form a "three-strikes team" on complex litigation.

Judge McDonald noted that the Orange County courts has a complex case management panel. He has learned that there is a common methodology in handling complex litigation that will meet the needs of the business community. Justice Aldrich stated that a complex case section will address all areas of law and include business and commercial law.

Mr. Saferstein said that the perception of inadequacy of the judicial system to handle business cases comes from business versus business, and not business versus the individual. He added that if the council does not address the issue, the marketplace will solve the problem through the withdrawal of the business community from the judicial system.

Justice Huffman requested that the task force look at the entirety of resolution of a complex case and not just stop at the trial court level. In response to the perception that the business community was not being served, Justice Huffman noted that many communities are not being served because of lack of resources in the court system.

*Council action:*

Upon a motion made by Ms. Veasey, the Judicial Council:

- (1) Agreed with the task force recommendation not to support implementation of a specialized division or court for business or commercial cases, on a pilot project basis or otherwise; but rather
- (2) Recommended actions by trial courts expressly focused on increasing responsiveness of the court system to users and improving the speed and quality of decision making in complex civil cases, including business and commercial disputes, such as:
  - (a) permitting early judicial intervention in complex civil cases;
  - (b) encouraging and requiring the use of alternative dispute resolution in complex civil cases;
  - (c) encouraging presiding judges to use their power under Government Code section 68112(b)(5) and California Standards of Judicial Administration section 29(d)(1)(iv) to appropriately match case assignments with judicial expertise and interest;
  - (d) encouraging judges interested in complex litigation to learn advanced management techniques at the National Judicial College, the National Center for State Courts, and the Mass Tort Committee of the Conference of Chief Justices; and
  - (e) providing, through the budget process, for the hiring of necessary research attorney staff, technology, and clerical support for trial court judges with civil calendars that include complex cases;
- (3) Recommended the creation of a Complex Case Management Task Force with seven specific charges for implementing and facilitating the identification and handling of complex civil cases, including business and commercial disputes, more efficiently, more equitably, more uniformly, and with greater sensitivity to the needs of court users:
  - (a) to develop for adoption, if deemed necessary, a definition of a complex civil case;
  - (b) to prepare guidelines for identifying a complex civil case;
  - (c) to prepare a complex civil litigation manual to guide trial courts in identification and handling of complex civil cases;

- (d) to recommend appropriate statutory and rule of court amendments to permit greater flexibility in complex civil cases, including, but not limited to, business and commercial disputes;
  - (e) to oversee establishment of a pilot program responsive to users in the court system in appropriate urban counties that focuses resources in a complex litigation division including:
    - (A) establishing guidelines for use of funds allocated to pilot program sites; and
    - (B) evaluating the results of the pilot;
  - (f) to recommend actions to widely implement activities shown by the pilot to be effective; and
  - (g) to recommend an appropriate oversight body charged with ongoing responsibility for monitoring complex litigation programs established in California courts and recommending improvements to such programs to the Judicial Council or one of its advisory committees; and
- (4) Requested that the Center for Judicial Education and Research (CJER) and the Complex Case Management Task Force develop (a) specialized curricula and programs devoted to complex civil case management and substantive law in areas that frequently arise in complex cases, including business and commercial disputes, and (b) recommendations as to who should attend and how often those designated should attend such programs.

The motion passed.

**Item 17      Rules on Form and Filing of Papers, Pleadings, Summary Judgment, Preliminary Injunctions and Bonds, and Ex Parte Applications and Orders (Rules 301, 302, 303, 311, 312, 313, 342, 359, 379)**

Justice Aldrich, Judge Elaine Watters, and Mr. Curtis Karnow presented the report assisted by Mr. John Toker of AOC staff. Justice Aldrich reported that in 1993, the California Judges Association (CJA) and the State Bar of California formed a working group on uniform rules that proposed two sets of new and amended rules of court to supersede local rules in specified subject areas. He noted that the proposed rules include changes made in response to comments received from the Civil and Small Claims Advisory Committee and from the circulation for comment.

Judge Watters stated that the working group was formed to address the problem of local rules that were redundant, illegal, oral, and not uniform. She noted that the group worked hard to develop rules that maintain local autonomy yet provide

consistency for trial lawyers who appear in various localities throughout the state.

*Council action:*

Upon a motion made by Mr. Saferstein, effective July 1, 1997, the Judicial Council:

- (1) Amended:
  - (a) rule 301 — Applicability [of civil law and motion rules];
  - (b) rule 303 — Definitions and construction;
  - (c) rule 311 — General format;
  - (d) rule 313 — Memoranda of points and authorities;
  - (e) rule 359 — Preliminary injunctions and bonds;
  - (f) rule 379 — Ex parte applications and orders; and
- (2) Adopted:
  - (a) rule 302 — Presumptive effect;
  - (b) rule 312 — Motions, demurrers, and other pleadings;
  - (c) rule 342 — Motion for summary judgment or summary adjudication.

The motion passed.

**Item 18      Final Report of the Court Improvement Project  
(Assessment and Recommendations for Improvement)**

Judge Leonard Edwards presented the report, assisted by Ms. Diane Nunn of AOC staff. Judge Edwards stated that the Court Improvement Project Final Report and Recommendations constitute the culmination of the two-year assessment phase of the California Court Improvement Project, carried out under the auspices of the Juvenile Law Subcommittee of the Judicial Council Family and Juvenile Law Advisory Committee. The goals of the Court Improvement Project are to undertake a statewide assessment of court practices and procedures relating to children and youth in California's child welfare and juvenile justice system, with a special focus on abused and neglected children placed out of home, and to make recommendations for improvement. The assessment phase included a broad-based review of laws, procedures, and practices applicable to juvenile court operations to assess whether courts fulfill their legal obligations to the children and families who appear in juvenile court.

The report was prepared by the National Center for State Courts (NCSC) in consultation with the Juvenile Law Subcommittee of the Family and Juvenile Law Advisory Committee.

Judge Edwards noted that the Legislature is frustrated with the length of time juvenile dependency cases take in the court system. Judge Edwards stated that juvenile courts in California are not able to resolve juvenile abuse and neglect cases within statutorily mandated timelines and commented that there are no consequences if the courts do not meet the requirements. He stated that counties in other states that were successful in meeting the legislative mandates had more judicial resources focused on juvenile dependency cases than is the case in California.

Judge Haight suggested the coordination of juvenile and drug courts since many dependency cases are due to drug addiction and usage. Judge Edwards stated that the committee is looking into such possibilities.

*Council action:*

Upon a motion made by Judge Couzens, the Judicial Council:

- (1) Received the final report on the assessment phase of the Court Improvement Project prepared by the National Center for State Courts in consultation with the Juvenile Law Subcommittee of the Family and Juvenile Law Advisory Committee;
- (2) Approved disseminating the report to the trial courts with the proper disclaimer;
- (3) Referred the report and its recommendations back to the Juvenile Law Subcommittee for a proposed implementation plan developed in consultation with the Presiding Judges and Court Administrators Advisory Committees for consideration by the council at its August 1997 meeting; and
- (4) Requested the Chief Justice to appoint a team to participate in a December 11–12, 1997, conference to include the two Judicial Council liaisons to the Family and Juvenile Law Advisory Committee.

The motion passed.

**Item 19      Invitation to Comment: Education for Judicial Officers  
Who Hear Juvenile Dependency Cases  
(Cal. Standards Jud. Admin., §§ 25.4 and 25.5)**

Judge Edwards presented the item to the council. He noted that Welfare and Institutions Code section 304.7, effective January 1, 1997, requires the Judicial Council on or before July 31, 1997, to develop and implement standards for the education of judicial officers who conduct juvenile dependency hearings.

The CJER Governing Committee and the Family and Juvenile Law Advisory Committee recommend the proposed standards.

*Council action:*

Upon a motion made by Judge Dover, the Judicial Council adopted, effective July 1, 1997, new California Standards of Judicial Administration, sections 25.4 and 25.5 regarding the education of judicial officers who conduct juvenile dependency hearings.

The motion passed.

**Item 20 Report on Court Profiles Criminal Model Development**

Judge Thomas Nuss, Mr. Alan Carlson, and Mr. Bill Poos presented the report to the council, assisted by Ms. Denise Friday of AOC staff. Judge Nuss updated the council on the results of the application of the criminal simulation model developed by the Court Profiles Advisory Committee. The results closely matched the court's actual judicial officer usage. Judge Nuss asked the council for authorization to proceed with the remaining components of the project plan, which provides for development of simulation models for civil, family law, mental health, probate, small claims, and traffic cases. The committee also concurs with the AOC staff recommendation that an independent assessment of computer simulation as a tool for evaluating judicial officer need in California trial courts be prepared. The evaluation should include the following:

- Assessment of the technical aspects of computer simulation;
- Assessment of the judicial needs process;
- Assessment of the administrative and operational implications for the trial courts and the AOC and relationship to other strategic projects of the Judicial Council relative to system development and maintenance;
- Identification and assessment of alternative approaches associated with identifying judicial officer need;
- Recommendations for transition steps if the model is fully implemented and interim strategies, if any, prior to full implementation;
- A cost/benefit analysis; and
- Product delivery schedules associated with alternative approaches.

Judge Nuss stated that the committee believes that simulation is the only appropriate way to determine judgeship need in a state with so many variances. Mr. Carlson noted that a simulation model is better than "weighted caseload" to

determine need because the model can incorporate time standards and perform “what if” analysis, does not perpetuate the status quo, and is sensitive to the needs of individual courts.

Mr. Vickrey stated that the council should not shy away from self-assessment even though it may not validate the current approach. He added that the council should reaffirm to courts that simulation is the approved approach while it is evaluating and improving the process.

Justice Boren commented that this model is unique nationwide and noted that people hope we succeed but wonder if it is possible.

*Council action:*

Upon a motion made by Judge Haight, the Judicial Council reaffirmed its commitment to the simulation model and authorized the Court Profiles Advisory Committee to proceed with the revised project plan, as previously approved by the council in November 1996, subject to Judicial Council review and consideration of an assessment report by an independent consultant concerning key project elements.

The motion passed.

NOTE: ITEM 22 WAS CONSIDERED PRIOR TO ITEM 21.

**Item 22      Status Report and Preliminary Implementation Plans for the Racial and Ethnic Fairness Subcommittee and the Disabilities Subcommittee of the Access and Fairness Advisory Committee**

Judge Benjamin Aranda (via telephone) and Ms. Arline Tyler of AOC staff were available to respond to questions regarding the item. It was noted that at the direction of the Judicial Council, the Racial and Ethnic Fairness Subcommittee and the Disabilities Subcommittee of the Access and Fairness Advisory Committee prioritized recommendations from its report submitted at the February 1997 Judicial Council meeting. Recommendations identified for Phase I can be implemented by the end of fiscal year 1996–97. (Phase II will be submitted to the council at its August 1997 meeting.)

The Rules and Projects Committee approved the implementation plan except for several items involving standards of judicial administration. The committee also

requested that gender be added to the reporting classifications in recommendation 7, chapter 7.

Mr. Walsh commented on the recommendation within the implementation plan regarding dissemination of the report. He mentioned that a concern had been raised regarding several paragraphs in the report. To accommodate this concern, he made a motion to form a subcommittee of representatives from each of the council's internal committees to consider the development and inclusion of introductory comments to the report that would explain the purpose of the report and the appropriate use of the information contained therein. Mr. Walsh also suggested that the report be disseminated as soon as possible with our standard disclaimer, noting that it was important to make clear that the report is of a task force, not of the Judicial Council. He emphasized that the subcommittee would not be authorized to change the report, which the council has seen in draft form three times before adopting it in final form in January.

Justice Scotland suggested changing the words "diversity education" in recommendation 4, chapter 5, to "education to ensure the fair treatment of all members of the diverse population that works in or is served by our court system."

Justice Scotland expressed concern about the level of financial and staff resources that would be diverted from other programs to implement recommendation 6 in chapter 8, regarding the development of a national conference on women of color in the courts. Judge Aranda responded that the Access and Fairness Advisory Committee had reduced the scope of the proposal. He said that the committee was committed to organizing focus groups around the issue and that that approach would not be costly or use a great deal of staff time.

Justice Scotland also raised concerns about the recommendation regarding referrals to the State Bar and law schools since there is litigation challenging the legality of Minimum Continuing Legal Education (MCLE) programs. He suggested deferring this proposal until the case is resolved. Mr. Walsh noted that the State Bar's MCLE programs are not the only continuing education programs available to lawyers. He recommended deleting reference to "MCLE" and the word "mandatory."

Representatives of RUPRO expressed concern regarding the items in the report that called for the development of standards of judicial administration. RUPRO asked the Access and Fairness Advisory Committee to implement the recommendations by a policy direction or an AOC program (such as education, materials, or training) instead of a formal standard. RUPRO expressed concern that a standard in many cases might interfere with judicial discretion. Judge Aranda questioned the meaning of "policy direction." He said that the committee



would withdraw items in their implementation plan that dealt with standards and consult with RUPRO regarding policy directions and the concerns raised.

With regard to the recommendation in the implementation plan about dissemination, Judge Haight stated that she was concerned that the Judicial Council is disseminating a report that is inaccurate and misleading in the presentation of some statistical information. A copy of Judge Haight's memorandum, which identified her specific concerns, was provided to all council members at the meeting.

Justice Huffman made a substitute motion for the portion of Mr. Walsh's motion regarding the charge of the subcommittee of representatives from the council's internal committees. His motion stated that prior to the dissemination of the report, the subcommittee would discuss with Judge Aranda whether to delete certain parts of it. The motion also would give the subcommittee the authority to work with the Access and Fairness Advisory Committee to develop a final draft that may be approved by the council via circulating order.

Judge Harbin-Forte expressed concern with the treatment of this report. She stated that the council, in approving the motion made by Justice Huffman, would be taking extraordinary steps. She stated that the council had received other reports that included the same statistics in question, yet those reports had not received the treatment being proposed here. She disagreed that these statistics were inaccurate and commented that the same statistics can often be interpreted differently by different people. She stated that the council's responsibility does not include redoing the report of the task force, which has disbanded. She urged immediate dissemination of the report, pointing out that some of the council members who expressed concern about the statistics had also conceded that the conclusions and recommendations of the task force would not be changed even if the statistics were modified.

Judge Pichon stated that one of the statistics referred to is in the "2020 Report," which was disseminated widely without question.

*Council action:*

Upon a motion made by Mr. Walsh and amended by Justice Huffman, the Judicial Council:

- (1) Approved the recommendation in the implementation plan of the Racial and Ethnic Fairness Subcommittee that the final report of the Task Force on Racial and Ethnic Bias in the State Courts be disseminated to the groups listed (in recommendations 1a and 1b in chapter 3) with the standard committee attribution, and that the dissemination take place on May 31, 1997, or as soon thereafter as possible;
- (2) Directed that prior to the dissemination of the report, a subcommittee of the Judicial Council, consisting of Justice Huffman, Judge Boland, Judge Pichon, and Ms. Glenda Veasey will work with the Access and Fairness Advisory Committee to consider the development and inclusion of introductory comments to the report that will explain the purpose of the report, any clarifications, and the appropriate use of the information contained therein;
- (3) As recommended in the task force's final report, requested the Access and Fairness Advisory Committee to continue to review input regarding the report and to issue recommendations for implementation that clarify the findings, provide appropriate context, and identify questions regarding the complex issues surrounding racial and ethnic bias;
- (4) Approved the remainder of the Phase I implementation plans from the advisory committee's Racial and Ethnic Fairness Subcommittee and Access for Persons with Disabilities Subcommittee with the following amendments:
  - (a) to defer implementation of the recommendations involving standards of judicial administration and to discuss those further with the Rules and Projects Committee;
  - (b) to add gender to the reporting classifications in recommendation 7, chapter 7; and
  - (c) to change the words "diversity education" in recommendation 4, chapter 5, to "education to ensure the fair treatment of all members of the diverse population that works in or is served by our court system."

The motion passed.

**Item 21      Rules and Standards on Jury Service (Rules 701, 711; Cal. Standards Jud. Admin., § 4.5, 4.6, 5.5, 8.7, 8.9)**

Professor Clark Kelso presented the item, assisted by Mr. Scott Beseda of AOC staff. At its meeting on May 17, 1996, the Judicial Council received the report of the Blue Ribbon Commission on Jury System Improvement. That report included recommendations for amendments to California Rules of Court and Standards of Judicial Administration. The following proposals were drafted and revised to incorporate comments received regarding those recommendations. The Rules and Projects Committee recommends approval except for rule 711 and sections 5.5 and 8.7.

The proposed rules and standards are as follows:

- **Rule 701—Granting excuses from jury service:** The proposed rule requires jury commissioners to apply the standards regarding hardship excuses currently set forth in California Standards of Judicial Administration, section 4.5.
- **Rule 711—Juror handbook:** The proposed rule requires each jury commissioner to make available a juror handbook explaining each juror's rights and responsibilities, in addition to highlighting services for jurors within the courthouse. The council will prepare a model statewide pamphlet to which the jury commissioner in each county can add information on services available locally.
- **Section 4.5—Juror complaints:** The proposed standard recommends that each court establish a reasonable mechanism for receiving and responding to juror complaints.
- **Section 4.6—Accuracy of master jury list:** The proposed section recommends that the jury commissioner use the National Change of Address System, or other comparable means, to update juror lists.
- **Section 5.5—Pre-instructions:** The proposed section suggests that judges (1) instruct juries before the trial begins; (2) allow jurors to submit written questions; and (3) encourage counsel to submit a glossary of relevant terminology in complex cases.
- **Section 8.7—Matters relevant to counsel participation in jury selection in criminal cases:** The proposed amendment to section 8.7 lists the factors a court should consider in deciding whether to allow counsel to supplement the court's voir dire under Code of Civil Procedure section 223.

- **Section 8.9—Trial management standards:** The proposed section sets out trial management standards designed to reduce the burdens on the jury, thereby making jury service more acceptable and increasing juror yield and representativeness.

Justice Huffman commented that RUPRO thought that proposed rule 711 was inappropriate as it directs the council to act on something that does not exist. He noted that the committee also believed that the goals of sections 5.5 and 8.7, though worthy, could be better achieved by education and training rather than by a standard. Professor Kelso replied that a rule on this matter would not be premature as a year has elapsed since the council approved the commission's report.

Mr. Love raised a concern regarding section 4.6—Accuracy of master jury list. He questioned the ability of counties to follow up on information received from the change of address system. Professor Kelso stated that the words “other comparable means” were added to address concerns raised by small counties.

*Council action:*

Upon a motion made by Justice Huffman, the Judicial Council:

- (1) Directed staff to draft a juror handbook for presentation to the council at its October 1997 meeting;
- (2) Disapproved the adoption of sections 5.5 — pre-instructions; and 8.7 — counsel participation in criminal-case jury selection as standards and referred them to CJER to develop educational programs and to AOC staff to develop possible policy statements to address the issues contained therein;
- (3) Amended, effective July 1, 1997, rule 701 — Granting excuses from jury service; and
- (4) Adopted, effective July 1, 1997:
  - (a) new Standards of Judicial Administration section 4.5—juror complaints, repealing current section 4.5;
  - (b) section 4.6 — Accuracy of master jury list; and
  - (c) section 8.9 — Trial management standards.

*[Staff note: After future Judicial Council approval, new rule 701 will be given a different rule number; a rule 701 already exists.]*

The motion passed.

**Item 23 Proposed Revised Judicial Council Long-Range Strategic Plan and Fiscal Year 1998–99 Judicial Council Action Plan**

Ms. Catherine Lowe and Ms. Shelley Stump of AOC staff presented the item. Ms. Lowe noted that at its March 1997 Planning Workshop, the Judicial Council considered proposed changes to its long-range strategic plan and staff recommendations to identify areas of focus for action by the council and its committees in fiscal year 1998–99. The consensus reached by the council during its planning discussions has been compiled into a proposed revised long-range strategic plan and 1998–99 action plan for the council’s approval. Ms. Stump highlighted several changes to the implementation plan since it was seen by the council in March. The proposed plan includes revisions that defer several projects and suggests that RUPRO direct the review of rules to determine constraints on judicial discretion as part of its ongoing review of committee work and not consider the rules review as a project separate from the committee review. Ms. Gonzalez questioned whether it would overburden the already-pressed staff to have RUPRO oversee the review of rules. Mr. Vickrey responded that on an ongoing basis committees are asked to review rules in their relevant subject-matter areas and that the recommendation is to ask committees to consider constraints on judicial decision-making as a factor in their review.

*Council action:*

Upon a motion made by Ms. Veasey, the Judicial Council:

- (1) Approved the proposed fiscal year 1998–99 action plan and directed staff to (a) develop budget requests consistent with the council’s direction in the action plan and (b) demonstrate the connection of budget requests to the action plan when the 1998–99 proposed judicial branch budget is submitted to the council for review in August 1997; and
- (2) Approved the proposed revised long-range strategic plan and directed staff to arrange for its publication and distribution in 1997.

The motion passed.

**Item 24 Child Support Commissioner and Facilitator Allocation Funding**

Judge Susan Harlan presented the item assisted by Mr. Michael Fischer of AOC staff. Judge Harlan noted that Family Code section 4252 requires the Judicial Council to establish minimum qualifications and caseload, case processing, and staffing standards for child support commissioners. A cooperative agreement

between the council and the Department of Social Services provides funding for child support commissioners and facilitators; the council is required to allocate this funding among the courts.

The Policy Coordination and Liaison Committee reviewed the proposal and suggested seeking legislation to allow smaller counties to get a waiver of the requirement to have a commissioner hear all Title IV-D child support matters.

*Council action:*

Upon a motion, the Judicial Council:

- (1) Approved the Title IV-D Report on Commissioner Workload, Qualifications, and Allocation; Support Staff Minimum Levels; and Future Statistical Studies, which includes the following actions:
  - (a) to establish the minimum qualifications for a commissioner, requiring five years' practice and experience in family law matters that may include Title IV-D child support matters;
  - (b) to require that commissioners receive ongoing education pursuant to a plan to be jointly developed by the Family and Juvenile Law Advisory Committee and the Center for Judicial Education and Research;
  - (c) to establish a workload of 250 cases per week for a commissioner hearing Title IV-D child support matters;
  - (d) to establish a minimum support staff consisting of one courtroom clerk, one bailiff, four file clerks, and one court reporter;
  - (e) to allocate the funding for the 50 commissioner positions based on the active pending caseload of Title IV-D child support cases in each county;
  - (f) to allocate the funding for the facilitator position using the same criteria as the allocation for the commissioner funding; and
  - (g) to direct the Family and Juvenile Law Advisory Committee to develop statistics that would facilitate the prediction of caseload and the resources needed to work with this caseload;
- (2) Directed the Family and Juvenile Law Advisory Committee to monitor the allocation of commissioners and facilitators and to recommend to the council reallocations as necessary to meet the needs of changes in caseload;
- (3) Directed the Family and Juvenile Law Advisory Committee to prepare the commissioner qualifications, educational requirements for commissioners and facilitators, caseload processing standards, and support staff levels as draft standards of judicial administration for submission to the Rules and Projects Committee to be circulated for comment; and

- (4) Approved seeking legislation to exempt smaller counties from the requirement to have a child support commissioner under certain circumstances, defining smaller counties as those with three or fewer superior court judges.

The motion passed.

*Special comment:* Justice Scotland announced that Mr. Saferstein would be ending his service to the council at the end of June. The council thanked Mr. Saferstein for his many contributions to the work of the council and for representing the State Bar so diligently.

*Council action:*

A motion was made that the Judicial Council meet in Executive Session to discuss pending litigation.

The motion passed.

**Item 25 Security in Family Law and Related Courts (Cal. Standards Jud. Admin., § 7)**

This item was removed from the agenda.

**Item 26 Status of Mini-Grant Funding That Council Approved in November 1996**

For information only; no action required.

**Item 27 Action on W97-17; Rule on Electronic Access to Court Records**

For information only; no action required.

**Item 28 Status Chart on Legislation**

For information only; no action required.

**Item 29      Traffic Court Improvement Project Update**

This item was removed from the agenda.

**Item 30      Update on the Development of the Judicial Branch Statistical Information System**

For information only; no action required.

**Item 31      Report on New Mandatory Insurance Law (Veh. Code, §§ 16028–16033)**

For information only; no action required.

**Item 32      Revised California Drug Court Mini-Grant Application for Fiscal Year 1997–98**

For information only; no action required.

**Tab C        Circulating Orders Approved Since Last Business Meeting**

For information only; no action required.

**Tab D        Judicial Council Appointment Orders Since Last Business Meeting**

For information only; no action required.



The meeting was adjourned at 2:15 p.m.

Respectfully submitted,

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William C. Vickrey  
Secretary

**APPROVED:**

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**William C. Vickrey**  
**Secretary**

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**Date**