

Criminal Law Advisory Committee
Annual Agenda¹—2024

Approved by Rules Committee: October 26, 2023; revised February 7 and February 9, 2024

I. COMMITTEE INFORMATION

Chair:	Hon. Brian M. Hoffstadt, Chair, Associate Justice of the Court of Appeal, Second Appellate District Hon. Lisa Rodriguez, Vice Chair, Judge, Superior Court of San Diego County
Lead Staff:	Sarah Fleischer-Ihn, Attorney, Criminal Justice Services Office
Committee’s Charge/Membership: Rule 10.42(a) of the California Rules of Court states the charge of the Criminal Law Advisory Committee, which is to make recommendations to the Judicial Council for improving the administration of justice in criminal proceedings. Rule 10.42(b) sets forth the membership categories of the committee. The Criminal Law Advisory Committee currently has 21 voting members. The current committee roster is available on the committee’s webpage.	
Subcommittees/Working Groups²: <ol style="list-style-type: none">1. New - Pretrial Policy and Data Subcommittee. This subcommittee will consider bail and pretrial-related legislation and recommendations on statewide pretrial issues, including bail practices, pretrial release decisions, conditions of pretrial release, and the use of pretrial risk assessments (<i>added 2/7/2024</i>).2. New – Racial Justice Act working group to develop rules and forms to implement the Racial Justice Act and related legislation3. Protective Orders Working Group (POWG)4. Joint subcommittee to review mental health legislation with the Collaborative Justice Courts Advisory Committee	

¹ The annual agenda outlines the work a committee will focus on in the coming year and identifies areas of collaboration with other advisory bodies and the Judicial Council staff resources.

² California Rules of Court, rule 10.30 (c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

Meetings Planned for 2024³ (Advisory body and all subcommittees and working groups)

Date/Time/Location or Teleconference:

- January 2024 (in-person meeting to discuss and review winter and spring cycle proposals)
- February/March 2024 (videoconference to discuss and review spring cycle proposals, make final recommendations of winter cycle proposals, and discuss pending legislation)
- April 2024 (videoconference to discuss pending legislation)
- May 2024 (videoconference to discuss pending legislation)
- June 2024 (videoconference to discuss pending legislation)
- July 2024 (videoconference to make final recommendations on spring cycle proposals and discuss pending legislation)
- August 2024 (videoconference to discuss pending legislation)
- September 2024 (videoconference to discuss pending legislation)
- November 2024 (videoconference to discuss winter cycle proposals)
- Other videoconference meetings as needed to address urgent items

Subcommittee Meetings (*added 2/7/2024*):

- Pretrial Policy and Data Subcommittee: as needed to work on rule and form proposals and reviewing legislation
- Racial Justice Act Working Group: as needed to work on rule and form proposals
- Protective Orders Working Group (POWG): as needed to work on rule and form proposals
- Joint subcommittee to review mental health legislation with the Collaborative Justice Courts Advisory Committee: as needed from February through September to review proposed legislation

Check here if exception to policy is granted by Executive Office or rule of court.

³ Refer to [Operating Standards for Judicial Council Advisory Bodies](#) for governance on in-person meetings.

II. COMMITTEE PROJECTS

#	New or One-Time Projects ⁴	
1.	<i>Amend California Rules of Court, rule 4.433, Matters to be considered at time set for sentencing</i>	<i>Priority 1(a)</i> ⁵
<p data-bbox="176 394 1978 581"><i>Project Summary</i>⁷: Amend California Rules of Court, rule 4.433, Matters to be considered at time set for sentencing, to update references to the parole or postrelease community supervision period. Rule 4.433 currently states that the sentencing judge must inform the defendant under Penal Code section 1170(c) of the parole period provided by section 3000 to be served after the expiration of the sentence. Section 1170(c) was amended by AB 1156 (Stats. 2015, ch. 378) to add references to a parole period provided by section 3000.08 or postrelease community supervision in section 3451.</p> <p data-bbox="176 613 1978 654"><i>Status/Timeline</i>: Anticipate circulating for comment in spring 2024, for an effective date of January 1, 2025.</p> <p data-bbox="176 686 1978 727"><i>Fiscal Impact/Resources</i>: Criminal Justice Services staff will prepare the amended rule for the committee.</p> <p data-bbox="176 727 1978 808"><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p data-bbox="176 841 1978 881"><i>Internal/External Stakeholders</i>: Trial courts</p> <p data-bbox="176 914 1978 954"><i>AC Collaboration</i>: None</p>		

⁴ 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.

⁵ 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 or accurately reflect the law; 1(b) Council or an internal committee has directed the committee to consider new or amended rules and forms; 1(c) Change is urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(d) Proposal is 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 changes in law; 2(b) Responsive to identified concerns or problems; 2(c) Helpful in otherwise advancing Judicial Council goals and objectives.

⁶ Indicate which goal number of The Strategic Plan for California’s Judicial Branch the project most closely aligns.

⁷ A key objective is a strategic aim, purpose, or “end of action” to be achieved for the coming year.

#	New or One-Time Projects ⁴	
2.	<i>Revise the optional felony plea form (form CR-101)</i>	<i>Priority 1(a)</i>
		<i>Strategic Plan Goal IV</i>
<p>Project Summary: Revise the felony plea form advisement on parole violations to state that a parole violation may result in a return to state prison if the defendant is convicted of a crime that is subject to parole pursuant to Penal Code section 3000.1 or 3000(b)(4) and delete references to the Department of Juvenile Justice.</p> <p>Status/Timeline: Anticipate circulating for comment in spring 2024, for an effective date of January 1, 2025.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the revised form for the committee.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts</p> <p>AC Collaboration: None</p>		

#	New or One-Time Projects	
3.	Revise the optional misdemeanor domestic violence plea form (form CR-102)	Priority 1(a)
		Strategic Plan Goal IV
<p>Project Summary: Revise the optional misdemeanor domestic violence plea form (form CR-102) to reflect the lifetime ban on possession of firearms for persons convicted after January 1, 2019 of a misdemeanor violation of Penal Code section 273.5. This statutory change was enacted by AB 3219 (Stats. 2018, ch. 883).</p> <p>Status/Timeline: Anticipate circulating for public comment in winter 2023, for an effective date of September 1, 2024.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the revised form for the committee.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts</p> <p>AC Collaboration: None</p>		
4.	Develop a proposal to implement the Racial Justice Act	Priority 1(a)
		Strategic Plan Goal I, IV
<p>Project Summary: Amend California Rules of Court, rule 4.451, Habeas Corpus proceedings, and revise <i>Petition for Writ of Habeas Corpus</i> (form HC-001) to incorporate habeas corpus proceedings under Penal Code section 745 and 1473(f). Revise <i>Motion to Vacate Conviction or Sentence</i> (form CR-187), and <i>Order on Motion to Vacate Conviction or Sentence</i> (form CR-188) to incorporate requests for relief under Penal Code section 745 and 1473.7(a)(3). Develop standards for appointment of private counsel in superior court for Racial Justice Act claims, as required under Penal Code section 1473.1 (SB 133 (Stats. 2023, ch. 34)).</p> <p>Status/Timeline: Anticipate circulating for comment in winter 2023, for an effective date of September 1, 2024.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the proposal for the committee. The Joint Rules Subcommittee of Trial Court Presiding Judges and Court Executive Advisory Committees (TCPJAC/CEAC JRS) will review the proposal for court operations impacts.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts, justice system partners, advocacy organizations.</p>		

#	New or One-Time Projects	
	<i>AC Collaboration:</i> The Appellate Advisory Committee will recommend similar revisions to implement Penal Code section 745 and 1473(f) to the California Rules of Court on habeas corpus proceedings in the appellate courts.	
5.	Revise Prohibited Persons Relinquishment Form Findings (form CR-210)	Priority 1(a)
	Strategic Plan Goal IV	
	<p>Project Summary: Revise <i>Prohibited Persons Relinquishment Form Findings</i> (form CR-210) to reflect statutory changes to firearms relinquishment procedures under AB 732 (Stats. 2023, ch. 240).</p> <p>Status/Timeline: Anticipate circulating for comment in winter 2023, for an effective date of September 1, 2024.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the revised form for the committee. The Joint Rules Subcommittee of Trial Court Presiding Judges and Court Executive Advisory Committees (TCPJAC/CEAC JRS) will review proposals for court operations impacts as necessary.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts, justice system partners.</p> <p>AC Collaboration: None</p>	
6.	Protective Orders and Other Forms: Implementation of Assembly Bill 92 (added 2/9/2024)	Priority 1a
	Strategic Plan Goal <u>III</u>	
	<p>Project Summary: Develop recommendations for form revisions to implement Assembly Bill 92 (Stats. 2023, Ch. 232). Under the statute, any person prohibited from possessing firearms is, also prohibited from possessing, owning, or buying body armor. This advisement needs to be added to forms in the Domestic Violence, Juvenile, Criminal, Civil Harassment, Elder Abuse, Workplace Violence, School Violence, and Gun Violence form series.</p> <p>Status/Timeline: Anticipate circulating for comment in spring 2024, for an effective date of January 1, 2025.</p> <p>Fiscal Impact/Resources: Committee staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p>	

#	New or One-Time Projects	
	<p>Internal/External Stakeholders: All draft proposals will circulate to seek comments from legal service groups, bar organizations, and court executives and presiding judges throughout the state.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee, Criminal Law Advisory Committee, and Civil and Small Claims Advisory Committee</p>	
7.	<p>Consider proposal addressing fee waivers for certified copies of criminal records</p>	<p>Priority 1(c), 2(b)</p> <p>Strategic Plan Goal I, IV</p>
	<p>Project Summary: The committee will consider a rule and form proposal requested by a coalition of advocacy organizations regarding fee waivers for certified records in an inactive criminal case. This largely impacts persons with immigration cases who often need certified copies of criminal records to show that a criminal case has been terminated, charges have been dismissed, or that criminal charges were never filed.</p> <p>Status/Timeline: Anticipate circulating for comment in spring 2024, for an effective date of January 1, 2025.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the proposal for the committee. The Joint Rules Subcommittee of Trial Court Presiding Judges and Court Executive Advisory Committees (TCPJAC/CEAC JRS) will review proposals for court operations impacts.</p> <p><input type="checkbox"/> This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</p> <p>Internal/External Stakeholders: Trial courts, justice system partners, advocacy organizations.</p> <p>AC Collaboration: None</p>	
8.	<p>Pretrial release implementation</p>	<p>Priority 2</p> <p>Strategic Plan Goal IV</p>
	<p>Project Summary: Consider developing proposals on the implementation of pretrial release, such as the use of actuarial risk assessment tools, the use of bail in light of <i>In re Humphrey</i> (2021) 11 Cal.5th 135, and the imposition of pretrial release conditions.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff.</p>	

#	New or One-Time Projects	
	<p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts, justice system partners.</p> <p>AC Collaboration: None</p>	
9.	Revise Notification of Military Status form (MIL-100)	Priority 2(a)
	Strategic Plan Goal I, IV	
	<p>Project Summary⁷: Revise form MIL-100 to 1) state that, in a criminal case, either the defendant or defendant’s counsel may file the notification with the court; 2) add language stating that in a criminal case, the court will send the form to the county veteran’s service office to confirm the person’s military status, 3) add a reference to CalVet, the state Department of Veteran’s Affairs, and 4) reference pretrial diversion offering treatment as an alternative to trial, conviction, and incarceration under Penal Code section 1001.80. The Family and Juvenile Law Advisory Committee is also recommending revisions to the form to comply with SB 1182 (Stats. 2022, ch. 385), which added new statutory provisions regarding considerations for veterans in family court.</p> <p>Status/Timeline: Anticipate circulating for public comment in winter 2023, for an effective date of September 1, 2024.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the proposal for the committee.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts, justice system partners.</p> <p>AC Collaboration: Family and Juvenile Law Advisory Committee</p>	
10	Develop a legislative proposal regarding access to prison records for resentencing	Priority 1
	Strategic Plan Goal I, IV	
	<p>Project Summary⁷: Committee members have identified issues with the defendant being able to access and present their prison record in resentencing cases where the court is directed to consider postconviction factors. This proposal would explore options to facilitate CDCR’s production of a defendant’s prison records for these purposes.</p>	

#	New or One-Time Projects
	<p>Status/Timeline: Anticipate circulating for public comment in spring 2024, to go to the Council in September 2024 as proposed legislation with an effective date of January 1, 2026.</p> <p>Fiscal Impact/Resources: Criminal Justice Services staff will prepare the proposal for the committee and consult with Governmental Affairs staff.</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: Trial courts, justice system partners, JCC Governmental Affairs.</p> <p>AC Collaboration: None</p>

#	Ongoing Projects and Activities⁴	
1.	Review pending legislation	<p>Priority 1</p> <hr/> <p>Strategic Plan Goal II</p>
	<p>Project Summary: The committee will review pending criminal law legislation and provide recommendations as to whether the Judicial Council should support or oppose the legislation.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Governmental Affairs</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: None</p>	
2.	Criminal justice and mental health	<p>Priority 1</p> <hr/> <p>Strategic Plan Goal II</p>

#	Ongoing Projects and Activities⁴	
	<p>Project Summary: The committee will review pending legislation related to criminal justice and mental health and provide recommendations as to whether the Judicial Council should support or oppose the legislation. The committee will provide subject matter expertise on pending criminal justice and mental health legislation and related issues.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: Governmental Affairs</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Collaborative Justice Courts Advisory Committee</p>	
3.	Provide subject matter expertise for other advisory committees	Priority 1
	<p>Project Summary⁷: The committee will provide subject matter expertise for other advisory committees working on proposals involving criminal law and procedure.</p> <p>Status/Timeline: Ongoing</p> <p>Fiscal Impact/Resources: None</p> <p><input type="checkbox"/> <i>This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</i></p> <p>Internal/External Stakeholders: None</p> <p>AC Collaboration: Respective advisory committees.</p>	

III. LIST OF 2023 PROJECT ACCOMPLISHMENTS

#	Project Highlights and Achievements
1.	Revise Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense. At its May 2023 meeting, the Judicial Council approved revisions to this optional form to reflect the repeal of Penal Code section 987.8 by Assembly Bill 1869 (Stats. 2020, ch. 92). The changes were effective September 1, 2023.
2.	Amend Cal. Rules of Court, rule 4.130, mental competency proceedings. At its May 2023 meeting, the Judicial Council approved amendments to the rule to reflect recent statutory changes regarding antipsychotic medication and mental health diversion. The changes were effective May 15, 2023.
3.	Amend Cal. Rules of Court, rule 4.117, qualifications for appointed counsel in capital cases. At its September 2023 meeting, the Judicial Council approved amendments to this rule to clarify that qualified counsel must be appointed in a capital case unless the district attorney states on the record that the death penalty will not be sought. These changes will be effective January 1, 2024.
4.	Rules and forms to implement court reporting requirements on a person’s competency to vote. At its September 2023 meeting, the Judicial Council adopted a new rule of court and two forms to implement changes to the Elections Code by Assembly Bill 2841 (Stats. 2022, ch. 807), which requires courts to report findings regarding a person’s competency to vote to the Secretary of State. The Judicial Council was required to develop rule and forms by statute. This was a joint proposal with the Probate and Mental Health Advisory Committee. The rule and forms will be effective January 1, 2024.
5.	Revise Petition for Resentencing Based on Health Conditions Due to Military Service. At its September 2023 meeting, the Judicial Council approved revisions to this optional form to reflect statutory changes expanding and clarify eligibility for relief. The proposal circulated twice for public comment. The changes will be effective January 1, 2024.
6.	Revise record cleaning forms to reflect various statutory changes. At its September 2023 meeting, the Judicial Council approved revisions to several optional record cleaning forms to incorporate several statutory changes. The changes will be effective January 1, 2024.
7.	Revise the felony plea form. At its September 2023 meeting, the Judicial Council approved revisions to the felony plea form to incorporate judicial findings on circumstances in aggravation, to reflect statutory changes. The changes will be effective January 1, 2024.
8.	Rules and forms to implement the Racial Justice Act (AB 2542) and AB 256. The committee developed a proposal to revise rules and forms to implement the Racial Justice Act. It is anticipated that this proposal will circulate for public comment in winter 2023.
9.	Revise the military notification form. The committee was asked to make revisions to the military notification form as part of a proposal headed by the Family and Juvenile Law Advisory Committee. It is anticipated that the proposal will circulate for public comment in winter 2023.
10.	Review pending legislation. CLAC provided subject matter expertise or a recommended position on over 75 criminal law bills, including the following: <ul style="list-style-type: none"> a. AB 304, Domestic violence: probation; AB 455, Firearms: prohibited persons; AB 467, Domestic violence: restraining orders; AB 600, Criminal procedure: resentencing; AB 732, Crimes: relinquishment of firearms; AB 806, Criminal procedure: crimes in multiple jurisdictions; AB 829, Crimes: Animal abuse; AB 881, Jury duty; AB 890, Controlled substances: probation; AB 945, Criminal procedure: Expungement of Records; AB 1118, Criminal procedure: discrimination; AB 1214, Remote Proceedings; AB 1253, Hearsay: exceptions; AB 1310, Sentencing: recall and resentencing; AB 1584,

#	Project Highlights and Achievements
	<p>Criminal procedure: competence to stand trial; SB 22, Courts: remote proceedings; SB 81, Parole Review; SB 94, Recall and resentencing: special circumstances; SB 97, Criminal procedure: writ of habeas corpus; SB 99, Judicial Council: criminal remote proceedings; SB 349, Criminal procedure: competence to stand trial; SB 441, Criminal procedure: discovery; SB 652, Evidence: expert testimony; and SB 717, County mental health services.</p> <p>b. Committee leadership provided extensive support on criminal remote proceedings legislation.</p>
11.	<p><i>Criminal justice and mental health.</i> The committee convened a joint working group with the Collaborative Justice Courts Advisory Committee to review pending legislation related to criminal justice and mental health, and provided recommendations as to whether the Judicial Council should support or oppose the legislation.</p>
12.	<p><i>Provide subject matter expertise for other advisory groups.</i> The committee provided subject matter expertise to the Family and Juvenile Law Advisory Committee on a proposal to revise the military notification form.</p>