



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

December 22, 2020

Action Requested

Please Review

To

Presiding Judges of the Superior Courts

Deadline

N/A

From

Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council

Contact

Shelley Curran, Director, Criminal Justice
Services, 415-865-4013,
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Subject

COVID-19 Pandemic Readiness Conferences

Chris Belloli, Manager, Temporary Assigned
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Courts across California have taken meaningful steps to protect the health and safety of court users and staff during the COVID-19 pandemic. One result, however, is that many courts have developed a significant backlog of criminal cases in which the defendant has been arraigned but there has been minimal progress toward case resolution either through plea or trial.

This burden of the pandemic-induced criminal trial backlog falls on all justice system partners, victims, and defendants. Prosecutors may have witnesses who become unavailable over time or find that evidence in the case has become stale. Defendants and their counsel must continue to develop the defense case, with counsel having only limited access to in-custody defendants. Defendants who are out of custody are often severely hampered in their ability to steady their lives—through employment, obtaining a driver’s license, moving to lower cost housing, etc.—due to the lack of resolution of their criminal cases. Victims are without timely resolution and restitution.

Courts, prosecutors, and defense counsel will face a substantial number of cases as we emerge from regional stay-at-home orders and the COVID-19 pandemic unless the justice community makes a concerted effort to take action now.

To address the pandemic-induced backlog of criminal matters, I am initiating a program to support trial courts in establishing readiness conferences for the early disposition of criminal cases. To reinforce these efforts, I will make retired judges available through the Temporary Assigned Judges Program (TAJP).

As needed, at the request of the presiding judge in each county, I will temporarily provide judges from the TAJA who could be assigned to conduct readiness conferences or cover matters for local trial court judges who would be assigned to these conferences. The success of this program will likely hinge on judges who both understand the local court culture and are highly regarded by both the defense and the prosecution. These judges may be sitting judges or temporary assigned judges.

To facilitate the use of temporary assigned judges in these programs, I am making the following temporary changes to the TAJA specific to this early disposition effort:

- **Expedited application and approval process for judges applying to the TAJA.** I have temporarily suspended the program policy requiring a 90-day waiting period after retirement for assigned judges to sit on assignment if they will be conducting readiness conferences. In addition, TAJA staff will encourage these judges applying to the program to submit their applications in advance of their retirement date so they will be immediately available for assignments upon retirement.
- **Temporary suspension of the service-day limitations for assigned judges participating in the program.** Courts will not be required to get special approval in advance for using an assigned judge over the service-day limitations (i.e., over 120 annual days or 1,320 lifetime days) if a request is related to the readiness conference program. This temporary relief applies only to assigned judges who will be conducting the conferences themselves or who will cover matters for a local judge assigned to these calendars. This will streamline the process of providing courts with critically needed judicial assignments in a timely manner, and also expand the pool of assigned judges available to courts for this purpose.

Appearance on this calendar would be mandatory, either through counsel or by the defendant if self-represented. Defendants who are represented would have a right to appear through counsel and would not be required to be personally present at the conferences. Depending on whether the

conference is being staffed by TAJP judges and the availability of court facilities, the conference could take place in person or through remote appearance by leveraging the technologies and processes implemented during the pandemic.

I encourage courts to work with their justice system partners to create readiness conference programs that are as expansive as possible, given the need in their jurisdiction during the pandemic. Going forward, any court that requests an emergency order that includes an extension of time for holding criminal trials will be required to state if they have established a program and include a description of it. I anticipate ending this temporary program when California's state of emergency is lifted, but I may elect to end it sooner if the pandemic-related need abates.

If you have questions regarding this program, please contact Shelley Curran, Director, Criminal Justice Services, Judicial Council, at 415-865-4013 or shelley.curran@jud.ca.gov. If you have questions regarding the Temporary Assigned Judges Program, please reach out to Chris Belloli, Manager, Temporary Assigned Judges Program, Judicial Council, at 415-865-7658 or Chris.Belloli@jud.ca.gov.

I wish you and yours a healthy and happy holiday season.

TCS/SC

cc: Court Executive Officers of the Superior Courts
Hon. Marsha G. Slough, Chair, Executive and Planning Committee, Judicial Council, and Associate Justice of the Court of Appeal, Fourth Appellate District, Division Two, Riverside
Ms. Shelley Curran, Director, Criminal Justice Services, Judicial Council
Mr. Chris Belloli, Manager, Temporary Assigned Judge Program, Judicial Council