

JUDICIAL COUNCIL MEETING
Minutes of February 27, 2004, Meeting
San Francisco, California

Judicial Council members present: Chief Justice Ronald M. George; Associate Justices Marvin R. Baxter, Norman L. Epstein, Richard D. Huffman, and Laurence Donald Kay; Judges Eric L. Du Temple, Michael T. Garcia, William C. Harrison, Jack Komar, William A. MacLaughlin, Heather D. Morse, William J. Murray, Jr., Michael Nash, Richard Strauss, and Barbara Ann Zúñiga; Mr. Rex S. Heinke, Mr. David J. Pasternak, Ms. Ann Miller Ravel, Mr. William C. Vickrey, and Mr. Thomas J. Warwick, Jr.; **advisory members:** Judges Frederick Paul Horn and Eric C. Taylor; Commissioner Patricia H. Wong; Ms. Tressa S. Kentner, Ms. Susan Null, and Mr. Alan Slater.

Absent: Assembly Member Ellen M. Corbett and Senator Martha M. Escutia.

Others present included: Associate Justice Kathleen E. O’Leary; Judges Ljubin Aleksievski, Clifford R. Anderson III, Olga Angelevska, Ernest Borunda, Susan D. Huguenor, Vera Koco, and Veli Vedat; Mr. Gary Blair, Ms. Carol J. Borunda, Mr. Mark Brickman, Ms. Michelle Castro, Ms. Natasa Dimitriova, Ms. Kim Dover, Mr. David Friedman, Mr. Randy Grossman, Mr. Thomas M. Huguenor, Ms. Beth Jay, Mr. John Kibre, Ms. Irene Lauren, Ms. Nikola Lazarov, Mr. Saso Patovski, Ms. Valentina Saurek, Ms. Antoaneta Skartova, Mr. Wantland J. Smith, Ms. Gordana Stojanova, Mr. Dennis Sullivan; and Mr. Damian Tryon; **staff:** Ms. Heather Anderson, Ms. Melissa Ardaiz, Mr. Michael Bergeisen, Mr. James Carroll, Ms. Deborah Chase; Ms. Roma Cheadle, Ms. Lucy Choate, Ms. Kim Davis, Ms. Charlene Depner, Mr. Robert Emerson, Ms. Audrey Evje, Mr. Bob Fleshman, Ms. Sheila Gonzalez, Mr. Clifford Ham, Ms. Charlene Hammitt, Ms. Christine M. Hansen, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Susan Hough, Ms. Kate Howard, Ms. Melissa Johnson, Mr. John A. Judnick, Mr. Kenneth Kann, Ms. AhMoi Kim, Mr. Ray LeBov, Ms. Jasmin Levander, Mr. Dag MacLeod, Ms. Rita Mah, Ms. Carolyn McGovern, Mr. Frederick Miller, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Ronald Overholt, Ms. Christine Patton, Mr. Chung-Ron Pi, Ms. Romunda Price, Ms. Harriet Raphael, Ms. Judy Reuter, Ms. Mary Roberts, Mr. Michael M. Roddy, Ms. Rona Rothenberg, Mr. Christopher Smith, Ms. Sonya Smith, Ms. Pat Sweeten, Ms. Marcia Taylor, Ms. Karen Thorson, Mr. Joshua Weinstein, and Ms. Pat Yerian; **media representatives:** Mr. Jeff Chorney, *The Recorder*, and Ms. Donna Domino, *San Francisco Daily Journal*.

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 Reports and Recommendations dated February 27, 2004, that was sent to members in advance of the meeting.)

Approval of Minutes of December 5, 2003

The council approved the minutes of its December 5, 2003, meeting with an amendment to correct the attendance record.

Special Presentation

Chief Justice Ronald M. George welcomed a delegation from the Republic of Macedonia that was visiting the Judicial Council meeting with former council member Judge Ernest Borunda. Judge Borunda thanked the Administrative Office of the Courts and the Chief Justice for the opportunity to attend the California Judicial Administration Conference and the council meeting. He introduced Associate Justice Olga Angelevska from the Supreme Court of Macedonia, who also thanked the Chief Justice for the opportunity to visit the California courts. Another delegation member, Judge Vera Koco, presented the Chief Justice with a plaque as a thank-you to the California Administrative Office of the Courts from the Macedonia judiciary.

Judicial Council Committee Presentations

Executive and Planning Committee

Associate Justice Richard D. Huffman, chair, reported on the committee's activities since the December Judicial Council meeting.

The committee met by conference call on January 7, 2004, and acted on behalf of the council to approve the annual allocation of the Equal Access Fund grants to 20 programs for a total of \$950,000. The committee considered requests for approval of additional commissioner positions in San Bernardino, Imperial, and Humboldt Counties. The committee deferred the matter because of budget uncertainties and because the committee needed to explore how to deal with continuing requests for subordinate judicial officers (SJOs). The council has adopted a policy on the use of SJOs, and the committee in the past has addressed ad hoc requests from courts to fund new or expanded SJO positions out of their existing budgets

On January 22, 2004, the committee held an all-day meeting at the Judicial Council Conference Center. The committee reviewed at length the Judicial Council's *Five-Year Capital Outlay Plan* and discussed it with staff. At that meeting the committee also previewed the resource allocation study and received a budget status report.

In light of recent rules requiring public notice of some budget matters, the committee became concerned about its authority under the California Rules of Court to act on such matters when the council is not in session. The committee requested advice from the Office of the General Counsel on the extent of the committee's authority to act between council meetings on matters that involve transfers of funds and otherwise affect trial court budgets.

On January 28, 2004, the committee reviewed the agenda for the February business meeting and a report on family law commissioners and facilitators. In the past the committee would have acted on behalf of the council on that matter, but the committee placed it on the council's consent agenda because there was time to do that and because the committee was concerned about taking budget-related actions in a nonpublic environment. The item was placed on the consent agenda with the committee's recommendation that it be passed.

The committee considered requests to fund one SJO position in Imperial County, one in San Bernardino County, and a half-time position in Humboldt County. After reviewing the basic policy of the council and actions the committee has taken in the past, the committee authorized the establishment of a commissioner position in San Bernardino County and one in Imperial County, with the contingency that the courts pay for them out of their existing funds. The committee declined to approve the request from the Superior Court of Humboldt County.

The committee directed staff to come back to the council with a more comprehensive policy for dealing with interim and out-of-budget-cycle requests for approval of additional commissioner and referee positions—even if the courts have adequate funds in their budgets that particular year.

Also at that meeting, the committee reviewed the advisory committee work plans assigned to them, finding them generally well done and helpful, and suggested modifications in a couple of areas, which were promptly resolved. The committee forwarded to the Chief Justice nominations for an out-of-cycle vacancy on the Access and Fairness Advisory Committee.

On February 11, 2004, the committee met by conference call and took action (delegated to it by the council at its December 2003 meeting) in regard to the budgets for fiscal year 2003–2004 for the Trial Court Improvement Fund and the Judicial Administration Efficiency and Modernization Fund.

The committee continued setting the council business meeting agenda. This agenda took additional meetings to prepare, particularly because of the attention required by the proposed rule 2073.5 of the California Rules of Court concerning access to electronic court records.

The committee reviewed and recommended to the Chief Justice nominations for appointment to the Court Interpreters Advisory Panel and the Court Executives Advisory Committee. The committee also received an informal opinion from the office of the General Counsel concluding that the Executive and Planning Committee has the authority under the California Constitution and the California Rules of Court to act on budget matters when the council is not in session. However, the committee has determined that as a

matter of policy it will avoid acting on budget issues in the absence of a public meeting unless (a) the matter has been specifically delegated to the committee by the council at a public meeting or (b) it is an emergency. Otherwise, the committee will place these items on the consent agenda for final approval by the council.

Finally, on February 19, 2004, the committee added to the agenda the rule on access to electronic court records and a statement of investment policy.

Policy Coordination and Liaison Committee

Associate Justice Marvin R. Baxter, chair, reported on the committee's activities since the December Judicial Council meeting.

On February 19, 2004, the Policy Coordination and Liaison Committee met by conference call to consider the agreement reached between the court reporters and the Reporting of the Record Task Force, headed by Justice James A. Ardaiz. The committee approved that agreement in principle; subject to additional review once the Presiding Judges and Court Executives Advisory Committees had the opportunity to review it.

The legislative deadline to introduce bills was Friday, February 20, so the Office of Governmental Affairs staff is in the process of reviewing those bills. Future reports will inform the council of the progress of those bills, including the progress of the Judicial Council–sponsored bills.

With respect to the committee's liaison responsibilities, committee members have participated in ongoing meetings with other groups that share our interest in the courts. Meetings have been held with the California State Association of Counties, Consumer Attorneys of California, the California Defense Counsel, and the California District Attorneys Association. Future meetings are scheduled with the Criminal Defense Bar, the Attorney General, the California State Sheriffs Association, and the State Bar of California. These meetings are extremely helpful in facilitating discussion of mutual concerns.

In February the Chief Justice, Bill Vickrey, Ron Overholt, and Ray LeBov held productive meetings with legislative leadership as well as leaders of budget and judiciary committees, in which the focus was on legislative and budget priorities for the council in 2005.

Finally, on March 23, the Chief Justice will deliver his State of the Judiciary address at the State Capitol. The address will be followed by the Judicial Legislative Executive Forum, where council members will have the opportunity to converse with members of the Legislature and members of the new executive team in Sacramento.

Rules and Projects Committee

Associate Justice Norman L. Epstein, chair, reported on the committee's activities since the December Judicial Council meeting. The Rules and Projects Committee (RUPRO) met five times between the December and February council meetings.

On December 9, 2003, the committee met to review five proposals for circulation in the winter 2004 public comment cycle for rules and forms. The proposals have been through the public circulation phase and will come before the council at its meeting on April 23. The committee also approved the 2004 Uniform Bail and Penalty Schedules and authorized their submission to the council by circulating order. And the council approved those changes by circulating order.

On January 21, 2004, the committee reviewed proposed temporary rule 2073.5—which would allow remote electronic access to public court records in individual criminal cases that are attended by extraordinarily high requests for access to documents—and recommended that the council approve it.

RUPRO reviewed the proposed work plans of advisory committees and task forces assigned to the committee and approved the work plans submitted by eight advisory committees and three task forces: Appellate Advisory Committee, Access and Fairness Advisory Committee, Advisory Committee on Civil Jury Instructions, Civil and Small Claims Advisory Committee, Criminal Law Advisory Committee, Family and Juvenile Law Advisory Committee, Probate and Mental Health Advisory Committee, Traffic Advisory Committee, Task Force on Jury Instructions Criminal, Reporting of the Record Task Force, and Task Force on Self-Represented Litigants.

Also on January 21, RUPRO established a process for obtaining public comment on Judicial Council–approved jury instructions, as required by rule 6.13(d). In this process, the proposed new forms will be publicly circulated at regular intervals without the necessity of prior RUPRO approval. That is a change from the normal practice for rules, which is to have them go through RUPRO before they are circulated for public comment. But the new process is consistent with what was done in preparation for the adoption of the Civil Jury Instructions. That process worked very well; it satisfied the public, groups were interested in the instructions, and the quality of the instructions profited by the experience. Under the process approved by RUPRO, the public comment period is normally 60 days, and minor modifications such as noncontroversial technical changes need not be sent out for public comment.

On February 11, 2004, the committee met to review proposed rule 1479 on the responsibilities of children's counsel in delinquency proceedings. During the committee's discussion of the proposal, several members expressed concern about whether the rule would impose new costs on the counties, and recommended that staff work very closely with the counties in the implementation of this rule.

The rule does nothing in the committee's view, to change the law, or otherwise modify the legal obligations of the courts and counties. The committee learned that in reality most counties are doing what this rule would provide anyway, which is to assure that wards in delinquency matters are represented by counsel during the period of the wardship. Therefore, the committee recommends that the proposal be adopted by the council.

Finally, the committee met just after the issues meeting on February 26. The purpose of the meeting was to decide whether the committee needed a corporeal meeting to review rules items for the next meeting of the Judicial Council. RUPRO scheduled its next meeting toward the end of March and, after becoming acquainted with the volume of material it would review, decided to hold a corporeal meeting in San Francisco.

Justice Epstein also reported that the new Advisory Committee on Civil Jury Instructions, chaired by Justice James D. Ward, recently issued for public circulation a proposal for new and revised civil jury instructions. Following the public comment, the advisory committee will submit these to RUPRO, and then the instructions will come before the full council for action at its April 23, 2004, meeting.

CONSENT AGENDA

Item 1 Annual Report of Trial Court Expenditures for Fiscal Year 2002–2003 (Action Required)

AOC staff recommends that the council approve the annual report to the Legislature on prior-year trial court expenditures, as reported in the Quarterly Financial Statements for fiscal year 2002–2003.

Council action

The Judicial Council approved the *Annual Report of Trial Court Expenditures* for fiscal year 2002–2003 for submission to the Legislature.

Item 2 Internal Audit Services Charter Approval (Action Required)

AOC staff recommends that the council approve the Internal Audit Services Charter. Internal audit organizations are required to be an independent appraisal activity within organizations. That independence is acknowledged and approved through the Internal Audit Services Charter.

Council action

The Judicial Council approved the Internal Audit Services Charter.

Item 3 Child Support Commissioner and Family Law Facilitator Midyear Funding Reallocation for Fiscal Year 2003–2004 (Action Required)

The Judicial Council is required to allocate non-trial court funding annually to local courts for the child support commissioner and family law facilitator program. Under an established procedure contained in the standard agreement with each superior court, the Judicial Council at midyear redistributes to courts with a documented need for additional funds any unallocated funds and funds from courts that are projected not to spend their full grants. The funds for this program are provided by a cooperative agreement between the California Department of Child Support Services and the Judicial Council. Two-thirds of these funds are federal funds and the remaining one-third are state General Fund moneys (non-trial court funding).

Council action

The Judicial Council approved the midyear reallocation of funding for child support commissioners and family law facilitators for 2003–2004.

DISCUSSION AGENDA

Item 11 Access to Electronic Court Records: Interim Rule to Allow Trial Courts to Provide Internet Access to Electronic Court Records in Selected Criminal Cases (adopt Cal. Rules of Court, rule 2073.5) (Action Required)

Ms. Melissa Johnson and Mr. Joshua Weinstein presented this item.

AOC staff recommends the adoption of interim rule 2073.5, which would allow courts to post case records for high-publicity criminal cases on the Internet under specified circumstances. Rule 2073 currently allows courts to provide remote (i.e., Internet) access to all electronic court records in civil cases but not in criminal cases, because of privacy concerns. However, in high-publicity criminal cases, the use of the Internet may be appropriate because it will significantly ease burdens on court staff, and most information in the court file is already widely disseminated through the media. The rule would become effective immediately upon approval by the Judicial Council and would be in effect only until the end of the year, at which time the council could consider whether to adopt a permanent rule.

Council action

The Judicial Council, effective immediately and until January 1, 2005, adopted interim rule 2073.5 to allow courts in limited circumstances to post electronic court records in individual criminal cases. The text of the final rule is attached to these minutes. Also attached is a record of the roll-call vote on this matter.

Item 7 Juvenile Law: Responsibilities of Children’s Counsel in Delinquency Proceedings (adopt Cal. Rules of Court, rule 1479) (Action Required)

Judge Susan D. Huguenor, Ms. Diane Nunn, Ms. Audrey Evje, and Ms. Melissa Ardaiz presented this item.

The Family and Juvenile Law Advisory Committee recommends adoption of a rule that would clarify the extent of a child’s counsel’s responsibilities in delinquency proceedings. By consolidating relevant statutory provisions, the rule helps to ensure protection of the child’s interest at every stage of the proceedings.

Council action

The Judicial Council, effective July 1, 2004, adopted rule 1479 of the California Rules of Court to clarify the extent of a child’s counsel’s responsibilities in delinquency proceedings.

Item 5 Early Mediation Pilot Programs: Evaluation Report and Recommendations (Action Required)

Mr. Michael Bergeisen, Ms. Heather Anderson, and Mr. Chung-Ron Pi presented this item.

As part of the legislation establishing the early mediation pilot programs, Code of Civil Procedure section 1742 requires the Judicial Council to submit a report on these pilot programs to the Legislature and Governor. The council is asked to approve the report that was prepared to fulfill that statutory mandate, for submission to the Legislature and Governor. Based on the benefits of the pilot programs outlined in the report, the council is also asked to support the continuation of early mediation programs as part of the core operations in the existing pilot courts, support the expansion of such programs to other courts based on those courts’ needs, and direct the Civil and Small Claims Advisory Committee and staff to take actions to encourage and support the expansion of such programs.

Council action

The Judicial Council:

1. Approved the report *Evaluation of the Early Mediation Pilot Programs* for forwarding to the Legislature and Governor.
2. In the existing pilot program courts, affirmed its support for the continuation of mediation programs in which the following principal characteristics exist and the eventual transition of these programs to permanent parts of the court’s core operations:
 - a. Both limited and unlimited civil cases are eligible for the mediation program,

- b. Mediation is considered at the first case management conference,
 - c. The court assesses cases to determine whether mediation is appropriate and encourages the use of mediation in appropriate cases,
 - d. The court sets early deadlines for completion of mediation in appropriate cases,
 - e. The program provides trained mediators and incentives to use them mediators who are part of the court's program, and
 - f. A professional staff with expertise in mediation manages the mediation program.
3. Affirmed its support for the expansion of mediation programs for civil cases in California courts to the optimal level, as determined by evaluations of the civil caseloads and staffing levels in the pilot program courts and by the needs and resources of courts outside the pilot program. Directed staff to draft a proposal for a standard of judicial administration encouraging all trial courts to implement mediation programs for civil cases as part of their core operations, to be considered by the Civil and Small Claims Advisory Committee and the council.
 4. Directed the Civil and Small Claims Advisory Committee to consider whether legislative or rule amendments should be recommended to facilitate the implementation of mediation programs for civil cases.
 5. Directed AOC staff to:
 - a. Work with the pilot courts to share the results of the pilot programs with other trial courts and encourage these other courts to consider implementing mediation programs for civil cases as part of their core operations;
 - b. Work with the trial courts to (1) assess their needs and available resources for developing, implementing, maintaining, and improving mediation programs and other settlement programs for civil cases and, (2) where existing resources are not sufficient, develop plans for obtaining the necessary resources; and
 - c. Provide trial courts with support and training to help them develop, implement, maintain, and improve mediation programs and other settlement programs for civil cases, including training for judges in assessing civil cases for referral to mediation and technical assistance and information about best practices for programs.

Item 6 *Report of the Task Force on Self-Represented Litigants and Statewide Action Plan (Action Required)*

Justice Kathleen E. O'Leary presented this item.

The Task Force on Self-Represented Litigants recommends that the council approve the *Statewide Action Plan for Self-Represented Litigants*. The task force was created by the

Judicial Council to make recommendations to the council on how to respond to the growing number of unrepresented litigants, who are having a great impact on the court system. The task force was charged with reviewing current services and projects and developing a statewide action plan with recommendations for the future to assist the council in efficiently and effectively implementing its goals of increasing access to the courts and improving the quality of justice and service to the public.

Council action

The Judicial Council approved the *Report of the Task Force on Self-Represented Litigants* and Statewide Action Plan.

**Item 4 Facilities Planning: *Trial Court Five-Year Capital Outlay Plan*
(Action Required)**

Ms. Kim Davis, Mr. Robert Emerson, and Ms. Rona Rothenberg presented this item.

The council will review staff recommendations and discuss project prioritization for proposed capital projects for the trial courts. The council will be asked to approve a ranked list of projects to be submitted to the Department of Finance; approve the application of fiscal year 2004–2005 funds to 10 demonstration projects; approve the submittal of a budget request for fiscal year 2005–2006, and direct staff to develop a broad range of financing alternatives for discussion at a future council meeting.

Council action

The Judicial Council directed AOC staff, on behalf of the council, to:

1. Submit to the Department of Finance, pursuant to Assembly Bill 1473, a *Trial Court Five-Year Capital Outlay Plan* consisting of a list of ranked projects (see attached project list);
2. Apply the \$30.447 million (or the amount funded) requested under fiscal year 2004–2005 Budget Change Proposal AOC2 (or a follow-on submittal) to the initial phases of 10 demonstration projects; and
3. Submit to the Department of Finance a request for inclusion of approximately \$30 million in the fiscal year 2005–2006 Governor’s Budget to continue the 10 demonstration projects and to begin initial phases of the first 30 projects on the ranked list of projects.

The Judicial Council also directed AOC staff to:

1. Develop, in consultation with the Department of Finance, a broad range of financing alternatives for the proposed projects, for the council’s consideration at a future meeting; and
2. Develop a process for review by the council or a designated advisory body of current facilities with particular shortcomings that may not be characterized

under the *Five-Year Trial Court Capital Outlay Plan—Prioritization Procedure and Forms* approved by the council at its August 2003 meeting.

An amended attachment B, which includes a ranking of proposed projects, was distributed at the meeting. The amended document is attached to these minutes.

Item 8 Budget Status Report on Fiscal Years 2003–2004, 2004–2005, and 2005–2006 (Action Required)

Ms. Christine M. Hansen presented this item.

AOC staff will provide information on budget issues affecting the judicial branch and recommends that the Judicial Council approve budget change proposal priorities for fiscal year 2005–2006. Among the multiyear funding issues discussed will be shortfalls in fee revenues and the State Court Facilities Construction Fund loan, the Judges’ Retirement System I deficiency, the Trial Court Trust Fund, and reductions in funding for court security and consolidated administrative services. Budget change proposals and unallocated reductions for fiscal year 2004–2005 will also be discussed, as well as spring Finance letters.

Council action

The Judicial Council approved the following statewide budget priorities for trial courts for fiscal year 2005–2006 without a funding cap:

- Trial court staff negotiated salary increases (NSIs) and benefits;
- Trial court staff retirement;
- Trial court Workers’ Compensation Program cost increases;
- Security NSIs, retirement, and other benefits;
- Increased charges for county-provided services;
- Court interpreters’ workload growth;
- Capital outlay—trial court facilities; and
- Court-appointed counsel.

The council also directed staff to review issues relating to the erosion of base budgets and the equalization of funding for the trial courts, and the impact these had on ongoing operations, and develop a funding proposal if appropriate.

Item 9 Allocation of \$11 Million Trial Court Security and \$2.5 Million Consolidated Administration Reductions for Fiscal Year 2003–2004 (Action Required)

Ms. Christine M. Hansen presented this item.

AOC staff presented recommendations on a methodology for allocating the trial court security reduction and the consolidated administration reduction.

Council action

The Judicial Council approved:

1. Allocation, on a one-time basis in fiscal year 2003–2004, of the \$11.0 million reduction for security based on the lesser of each court’s fiscal year 2003–2004 security budget or a court’s fiscal year 1996–1997 security baseline plus all ongoing security augmentations since that time; and
2. Allocation, on a one-time basis in fiscal year 2003–2004, of the \$2.5 million reduction for consolidation of administrative services to each court as a prorated portion of the total fiscal year 2003–2004 beginning baseline allocation (excluding juror, interpreter, and court-appointed counsel services).

Item 10 Statement of Investment Policy for the Trial Courts and Resolutions Regarding Investment Activities for the Trial Courts (Action Required)

Ms. Christine M. Hansen and Mr. John A. Judnick presented this item.

Many courts have established trial court operating funds separate from the county treasury, consistent with Government Code section 77009. Often, funds in these accounts remain idle for periods ranging from a few days to several months. Prudent financial management standards mandate that these idle funds be invested in accounts that combine liquidity with safety of funds while maximizing return.

To accomplish the investment of trial court funds within statutory requirements, AOC staff recommends that the Judicial Council approve the:

1. *Statement of Investment Policy for the Trial Courts*;
2. Resolution authorizing development of an investment program for the trial courts;
3. Resolution authorizing investments for the trial courts; and
4. Resolution regarding investment reporting requirements for the trial courts.

Council action

The Judicial Council approved the *Statement of Investment Policy for the Trial Courts* and approved the following resolutions:

Resolution Authorizing the Development of an Investment Program for the Trial Courts

This resolution provides that the Judicial Council, or through its designee, the Administrative Director of the Courts, directs that an investment program be developed for the trial courts. It also provides that the director of the Finance

Division of the Administrative Office of the Courts (AOC) will be the “treasurer” relating to invested funds and activities under the statutory requirements.

Resolution Authorizing Investments for Trial Court Funds

This resolution authorizes the investment of trial court funds into the:

- State of California Local Agency Investment Fund (LAIF);
- Bank of America, N.A., investment funds; or
- Other investments as approved by the Administrative Director of the Courts.

Resolution Regarding Investment Reporting Requirements for the Trial Courts

This resolution establishes the requirements for reporting investment activities by the responsible individuals.

Circulating Orders

Copies of circulating orders are for information only; no action was necessary.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further business, the meeting was adjourned at 2:20 p.m.

Respectfully submitted,

William C. Vickrey
Administrative Director of the Courts and
Secretary to the Judicial Council

Rule 2073.5 Remote electronic access allowed in individual criminal cases

- (a) **Exception for extraordinary cases.** Notwithstanding rule 2073(b)(2), the presiding judge of the court, or a judge assigned by the presiding judge, may exercise discretion, subject to (b), to permit remote electronic access to all or a portion of the public court records in an individual criminal case if (1) the number of requests for access to documents in the case is extraordinarily high, and (2) responding to those requests would significantly burden the operations of the court.
- (b) **Relevant factors.** In exercising discretion under (a), the judge should consider relevant factors, such as:
- (1) The impact on the privacy of parties, victims, and witnesses;
 - (2) The benefits to and burdens on the parties in allowing remote electronic access, including possible impacts on jury selection; and
 - (3) The benefits to and burdens on the court and court staff.
- (c) **Redaction of private information.** The court should, to the extent feasible, redact the following information from records to which it allows remote access under (a): driver license numbers; dates of birth; social security numbers; Criminal Identification and Information and National Crime Information numbers; addresses, and phone numbers of parties, victims, witnesses, and court personnel; medical and psychiatric information; financial information; account numbers; and other personal identifying information. The court may order any party who files a document containing such information to provide the court with both an original unredacted version of the document for filing in the court file and a redacted version of the document for remote electronic access. No juror names or other juror identifying information may be provided by remote electronic access. This subdivision does not apply to any document in the original court file; it applies only to documents that are available by remote electronic access.
- (d) **Notice and comments.** Five days notice must be provided to the parties and the public before the court makes a determination to provide remote electronic access under this rule. Notice to the public may be accomplished by posting notice on the court Web site. Any person may file comments with the court for consideration, but no hearing is required.
- (e) **Order.** The court's order permitting remote electronic access must specify which court records will be available by remote electronic access and what categories of information are to be redacted. The court is not required to make findings of fact. The court's order must be posted on the court's Web site and a copy sent to the Judicial Council.
- (f) **Sunset date.** This rule is effective until January 1, 2005.

Rule 2073.5 adopted effective February 27, 2004.

JUDICIAL COUNCIL ROLL CALL VOTE

Subject Item 11, Electronic Access to Court Records Date February 27, 2004 Tab #11

	NAME	VOTE ¹		
		YES	NO	ABSTAIN
1.	Hon. Ronald M. George, Chair	X		
2.	Hon. Marvin R. Baxter		X	
3.	Hon. Ellen M. Corbett	Absent		
4.	Hon. Eric L. Du Temple		X	
5.	Hon. Norman L. Epstein	X		
6.	Hon. Martha Escutia	Absent		
7.	Hon. Michael T. Garcia		X	
8.	Hon. William C. Harrison	X		
9.	Mr. Rex Heinke	X		
10.	Hon. Richard D. Huffman		X	
11.	Hon. Laurence D. Kay		X	
12.	Hon. Jack Komar		X	
13.	Hon. William A. MacLaughlin	X		
14.	Hon. Heather D. Morse	X		
15.	Hon. William J. Murray, Jr.	X		
16.	Hon. Michael Nash	X		
17.	Mr. David J. Pasternak	X		
18.	Ms. Ann Miller Ravel		X	
19.	Hon. Richard Strauss	X		
20.	Mr. Thomas J. Warwick, Jr.		X	
21.	Hon. Barbara Ann Zúñiga		X	

Total: Yes 10 No 9 Abstain 0



William C. Vickrey
Secretary to Judicial Council

1. Each member, as his name is called, responds in the affirmative or negative as shown above. If he does not wish to vote, he answers present (or abstain).

The Secretary repeats each member's name and notes the answers to the roll call in separate columns. At the conclusion of the roll call, the names of those who failed to answer can be called again or the chairman can ask if any one entered the room after his name was called. Changes of vote are permitted at this time, before the result is announced.

In roll call voting, a record of how each member voted, as well as the result of the vote, should be entered in full in the minutes.