

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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Report

TO: Members of the Judicial Council

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DATE: October 27, 2004

SUBJECT: Guidelines for Reimbursement of Extraordinary Costs Associated With
Homicide Trials (Action Required)

Issue Statement

The Budget Act of 2004 (Stats. of 2004, ch. 208) appropriates \$254,000 to reimburse courts for extraordinary costs of homicide trials as specified in Government Code section 15202. In order to implement the reimbursement process, the Judicial Council must approve guidelines to establish the reimbursement criteria.

Recommendation

Administrative Office of the Courts (AOC) staff recommends that the Judicial Council approve the proposed guidelines for reimbursement of extraordinary costs of homicide trials. The proposed guidelines are attached at pages 5–6.

Rationale for Recommendation

Pursuant to Government Code sections 15200–5204, counties submit claims directly to the State Controller’s Office for reimbursement of homicide trial costs, including court costs. Government Code section 15200 specifically provides that (1) the uniform administration of justice throughout the state is a matter of statewide interest; (2) homicide trials should not be hampered or delayed by any lack of funds; and (3) a county should not be required to bear the entire costs of a trial involving a homicide if it would seriously impair the finances of the county.

Although the statutes apply to counties, some courts have continued to obtain reimbursement for these costs through their counties; however, their degree of success in receiving reimbursement has varied (i.e., some courts have obtained full reimbursement, while others received only partial reimbursement regardless of the amount of money the county received from the state for court costs).

The Budget Act of 2004 appropriates funding for the payment of court costs related to extraordinary homicide trials. This new appropriation restores the ability of eligible trial courts to directly obtain reimbursement for extraordinary costs incurred for homicide trials, as specified in Government Code sections 15200–5204. (Please refer to the provisional language on page 4. Budget control language further directs the Judicial Council to adopt a rule of court to establish a process for courts to seek reimbursement for extraordinary costs. The proposed rule is an item on the council’s December 10, 2004, agenda.)

The proposed guidelines would provide courts with a process to apply to the AOC for reimbursement of these costs. Subject to the availability of funding, the AOC Finance Director will allocate reimbursement for costs consistent with the proposed guidelines. Due to the limited funding provided for payment of extraordinary costs of homicide trials, however, the guidelines as proposed would limit reimbursement to trial courts in counties with populations of 300,000 or less, as the relatively small courts in these counties are more adversely affected by the unpredictable and infrequent nature and size of the costs resulting from these cases. Also, for this same reason, reimbursement will be based on actual court need.

Larger courts that experience a budget shortfall or deficiency resulting from extraordinary homicide trial costs may apply for deficiency funding through funding in the Trial Court Improvement Fund set aside for deficiencies and emergencies.

Alternative Actions Considered

In addition to the recommended alternative, consideration was given to providing reimbursement to any court with a demonstrated need for funding related to extraordinary costs of a homicide trial. This alternative was not recommended because this funding is intended to address the impact of individual homicide trials that, because of special circumstances, result in costs that exceed the limited funding available in small courts for such purposes. As stated previously, larger courts that have a demonstrated need for funding as a result of the extraordinary costs of a homicide trial may request funding through the AOC’s existing deficiency process.

Comments From Interested Parties

In September the proposed guidelines were sent to the Interim Trial Court Budget Working Group, whose members are presiding judges and trial court executive officers, including the respective chairs of the Presiding Judges Advisory Committee and the Trial Court Executive Officers Advisory Committee. Several comments requested clarification regarding how the AOC would determine whether a court had sufficient resources to absorb one-time costs without an impact on court operations. The proposed guidelines were amended to include language that clarified how a court’s need would be assessed.

In addition, in its review of proposed rule 6.711 of the California Rules of Court, which establishes the reimbursement process, members of the Trial Court Presiding Judges and Court Executives Joint Rules Subcommittee expressed concern that restricting reimbursement to courts in counties with populations of 300,000 or less would preclude larger courts from receiving funding for these costs. The subcommittee was informed that larger courts could request funding through the AOC's existing deficiency process. This information was added to the preamble of the reimbursement guidelines and did not require any amendments to the actual guidelines. On October 26, 2004, the Interim Trial Court Budget Working Group unanimously approved the amended guidelines for submission to the council.

Implementation Requirements and Costs

The Budget Act appropriates \$254,000 to reimburse extraordinary costs of homicide trials. Implementation of the rule will require trial courts to submit reimbursement claims to the Administrative Office of the Courts that comply with council-approved guidelines for reimbursement.

Attachments

**Excerpt from Budget Act of 2004
(Stats 2004, ch. 208)**

0450-101-0001--For local assistance, State Trial Court Funding . . . 5,810,000
Provisions:

5. Any funds in this item that are not used shall revert to the General Fund.

6. Of the amount appropriated in this item, up to \$254,000 shall be used for the payment of courts costs of extraordinary homicide trials.
The Judicial Council shall adopt a rule of court to establish a process for courts to seek reimbursement for the extraordinary costs of homicide trials. In developing the process for reimbursement, the Judicial Council shall consider the following: (a) the uniform administration of justice throughout the state is a matter of statewide interest; (b) the prosecution and conduct of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the courts for such purposes; (c) a court should not be required to bear the entire costs of a trial involving a homicide if such costs will seriously impair the finances of the court; and (d) the methodology for reimbursement established in Section 15202 of the Government Code.

Proposed Guidelines for Reimbursement of Extraordinary Costs of Homicide Trials

Courts may apply to the Administrative Office of the Courts (AOC) for reimbursement of extraordinary costs associated with homicide trials in accordance with the following guidelines. This funding is intended to address the impact of individual homicide trials that, because of special circumstances, result in costs that exceed the limited funding available in small courts for such purposes. Larger courts that experience a budget shortfall or deficiency because of extraordinary homicide trial costs can apply for deficiency funding through the Trial Court Improvement Fund set aside for deficiencies and emergencies.

REIMBURSEMENT GUIDELINES

1. The court must be in a county with a population of 300,000 or less, according to the most recent decennial census.
2. Only the extraordinary costs of homicide trials will be reimbursed, such as temporary help, overtime, and one-time expenditures necessitated by the unique requirements of high-profile and complex homicide trials, including the costs of court-appointed expert witnesses, court reporter fees, transcript preparation charges, court interpreter costs (if not fully funded), and extraordinary court security costs. No reimbursement will be provided for normal, ongoing employee compensation and operating expenses that the court would have incurred if the trial had not occurred.
3. Reimbursement funding will be based upon a demonstration of actual court need and will not be provided to courts that have resources sufficient to absorb one-time costs without an impact on court operations. The assessment of a court's need will be similar to the process used in the analysis of deficiency requests, including consideration of the level of undesignated reserves and the court's ability to meet mandatory expenses, such as payroll and contractual obligations.
4. For change of venue cases, reimbursement of extraordinary homicide trial costs will be made to the court ultimately responsible for paying the costs associated with the case (usually the originating court). Reimbursement will be consistent with the preceding guidelines.
5. Because a separate General Fund appropriation is to be included in the Budget Act each year, separate claims for reimbursement must be submitted for each year for cases in which costs are incurred in more than one fiscal year.

6. Because the reimbursement process applies to costs that have already been incurred, to the extent that courts require advance cash payments for cash flow purposes to address the extraordinary costs of homicide trials, those will be handled through the existing “Request for Cash Advance” process specified in Finance Memo TC 2002-003.
7. Claims for reimbursement of extraordinary homicide trial costs should be submitted as soon as possible in the current fiscal year, but must be submitted no later than six months following the last day of the trial. For ongoing cases, separate requests must be submitted by August 30 of each fiscal year.

Subject to the availability of funding, the AOC Director of Finance will allocate reimbursement funding for costs consistent with the preceding guidelines. Due to the implementation of the State Appropriations Limit, and because the state has essentially eliminated the deficiency process, it is unclear if deficiency funding would be available through the state Department of Finance. Therefore, to the extent that costs exceed available funding, one-time funding may only be provided if savings can be identified in the Trial Court Trust Fund, or if funding is available within the Trial Court Improvement Fund set aside for deficiencies and emergencies. Unfunded claims will not be carried over into the next fiscal year.