

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

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Report

TO: Members of the Judicial Council

FROM: Christine M. Hansen, Director, Finance Division, 415-865-7951
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DATE: October 26, 2004

SUBJECT: Reimbursement of Extraordinary Costs Associated With Homicide Trials
(adopt Cal. Rules of Court, rule 6.711) (Action Required)

Issue Statement

Provisional language in the Budget Act of 2004 (Stats. 2004, ch. 208) requires the Judicial Council to adopt a rule of court to establish a process by which courts may seek reimbursement directly from the Administrative Office of the Courts (AOC) for payment of extraordinary costs related to homicide trials. The Budget Act appropriates \$254,000 for this purpose.

Recommendation

Staff of the Administrative Office of the Courts recommends that the Judicial Council, effective January 1, 2005, adopt rule 6.711 of the California Rules of Court to establish a process by which courts in counties with populations of 300,000 or less may seek reimbursement for extraordinary costs of homicide trials.

The text of the proposed rule is attached at page 4, and an excerpt of the provisional budget language stating this requirement is attached at page 5.

Rationale for Recommendation

The proposed rule of court would comply with the Budget Act of 2004, which requires the Judicial Council to establish a process by which courts may seek reimbursement for the extraordinary costs of homicide trials. The legislation requires that the council consider certain factors, including the methodology for reimbursement of a county's homicide trial costs, which is set out in Government Code section 15202.

The methodology specified in the statute involves a complicated calculation that is based on population and property tax assessments in relation to homicide trial costs.* It would be unnecessarily cumbersome for the AOC to utilize this same calculation in its reimbursement process. The proposed reimbursement would therefore be limited to courts in counties with populations of 300,000 or less because the relatively small courts in these counties are more adversely affected by the unpredictable nature and size of costs resulting from these cases.

Given the limited funding appropriated for payment of extraordinary costs of homicide trials, reimbursement will also be based on court need. The assessment of a court's need will be similar to the process used in the analysis of deficiency requests, including analysis of the level of undesignated reserves and the court's ability to meet mandatory expenses, such as payroll and contractual obligations.

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

Alternative Actions Considered

The proposed rule is required by legislative mandate. No alternative actions were considered.

Comments From Interested Parties

The proposed rule was distributed for comment to the regular rules and forms mailing list. Comments were received from two interested parties. Both commentators agreed with the proposal; however, one commentator suggested this eligibility be based exclusively on need, rather than population, but agreed with the proposal if this issue had been thoroughly examined. Before circulating the proposal for comment, the Trial Court Presiding Judges and Court Executives Joint Rules Subcommittee reviewed the proposed rule, and extensively discussed the criteria that based reimbursement eligibility on the size of the population of the county where the court was located. The subcommittee subsequently approved the proposed rule for release for public comment, with the understanding that larger courts that had a demonstrated need for funding as a result of the extraordinary costs of a homicide trial would not be precluded from requesting funding through the AOC's existing deficiency process. At the direction of the subcommittee, this information was included in the preamble of the proposed guidelines for reimbursement of extraordinary costs of homicide trials.

* Effective January 1, 2005, the statute will eliminate variations based on population. It will, however, remain need based since the eligibility for reimbursement will remain based on the relationship between the assessed value of property and the trial costs incurred by the county.

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. The proposed guidelines for reimbursement of costs associated with homicide trials is an item on the council's December 10, 2004, agenda.

Attachments

Rule 6.711. Reimbursement of costs associated with homicide trials

- (a) [Intent]** The intent of this rule is to permit courts that meet certain criteria to request reimbursement of extraordinary costs of homicide trials.
- (b) [Criteria]** A court that requests reimbursement of extraordinary costs of a homicide trial must meet all the following criteria:
- (1) Be located in a county with a population of 300,000 or less;
 - (2) Have incurred extraordinary costs of a homicide trial; and
 - (3) Demonstrate an actual need for reimbursement.
- (c) [Submission]** A request for reimbursement must be submitted by the court's presiding judge or executive officer to the Administrative Office of the Courts. All requests for reimbursement must comply with guidelines approved by the Judicial Council and include a completed *Request for Reimbursement of Extraordinary Homicide Trial Costs* form.

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

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

4. The Judicial Council shall provide the Department of Finance with a report, by September 1, 2005, detailing, by court, the level of reimbursements provided for court costs associated with prisoner hearings under Sections 4750 to 4755, and 6005 of the Penal Code.
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.