



Judicial Council of California

Administrative Office of the Courts

Trial Court Financial Policies and Procedures

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CHANGE OF VENUE

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Change of Venue

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2.0 Purpose

The purpose of this policy is to establish reimbursement procedures for the trial courts to follow in connection with costs associated with criminal Change of Venue Cases.

3.0 Policy Statement

The premise of this policy is that neither the Transferring Court nor the Receiving Court should financially benefit from or be harmed by a Change of Venue Case. The Transferring Court must reimburse the Receiving Court for any ordinary expenditure and any extraordinary but reasonable

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and necessary expenditure that the Receiving Court would not have incurred but for the Change of Venue Case.

4.0 Application

This policy applies to all trial courts.

5.0 Definitions

Refer to the Glossary for the following key term used in this policy.

Change of Venue Case

Change of Venue Reimbursable Costs

County Change of Venue Costs

Receiving County

Receiving Court

Transferring County

Transferring Court

6.0 Text

6.1 Process Outline

The following is the process that should occur after change of venue motion has been granted and the Reviewing Court has been determined.

1. The Transferring Court should inform the county executive or administration office of the Transferring County, and the Receiving Court should inform the county executive or administration office of the Receiving County, that the trial venue has been changed. This notification will allow the counties to approve a budget and timeline for the payment of County Change of Venue Costs before the beginning of trial in compliance with Penal Code section 1037.1(b). All parties

should understand that the budget is only a plan and actual costs may be different than the amounts included in the budget.

2. Before the trial begins, the Receiving Court must prepare a budget and a timeline for reimbursement, and forward these documents to the Transferring Court. The budget should comply with section 6.2, Budget Items.
3. Before the trial begins, issues of security are to be discussed and a preliminary security issues plan should be prepared in coordination with the Sheriff's Department.
4. Before the trial begins, the Transferring Court must either approve the budget and timeline, or work with the Receiving Court to revise them so that they are mutually acceptable. Both the Transferring Court and the Receiving Court must use their best efforts to reach a mutually acceptable agreement. If the parties are unable to reach an agreement, the dispute resolution process described in section 6.6, Reimbursement Process must be implemented.
5. The Transferring Court and the Receiving Court should execute a written MOU concerning the Change of Venue Case. The MOU should address at a minimum the topics listed in section 6.3, Recommended MOU Contents.
6. The Receiving Court must invoice the Transferring Court for all Change of Venue Reimbursable Costs in accordance with section 6.5, Invoice Process unless the MOU provides otherwise.
7. The Transferring Court must reimburse the Receiving Court for all Change of Venue Reimbursable Costs in accordance with section 6.6, Reimbursement Process unless the MOU provides otherwise.

NOTE: Pursuant to Penal Code section 1037.2, any costs that are incurred by the receiving county and not defined as court operations under Section 77003 of the Government Code or Rule 10.810 of the California Rules of Court must be considered to be county costs. Please see Penal Code section 1037.2(a) through (d) (1) for reference.

6.2 Budget Items

1. Reimbursable Costs. The budget prepared by the Receiving Court should list all anticipated Change of Venue Reimbursable Costs. The budget should include, but not be limited to, security costs identified by the Receiving Court that are above and beyond the level of security currently provided in the Receiving Court for extra security that must be provided due to the risk of escape, suicide, public threats, notoriety of the trial, or the potential for violence during the trial. The Receiving Court must be able to provide justification to support the premise that the estimated costs are solely the result of the Change of Venue Case.
2. Non-Reimbursable Costs. The budget must not include any costs for which the state reimburses the Receiving Court. The Receiving Court should report these costs to the Transferring Court, but must seek reimbursement for these costs through the established processes for the applicable state program. These non-reimbursable costs include costs for:
 - a. Court-appointed counsel
 - b. Court interpreters
 - c. Normal juror per diem for non-sequestered jurors
 - d. Assigned judges

6.3 Recommended MOU Contents

Any MOU between the Transferring Court and the Receiving Court regarding the Change of Venue Case should contain the following:

1. A statement by the Transferring Court that it complied with California Rules of Court, rule 4.152 when selecting the Receiving Court and trial judge.
2. The budget prepared by the Receiving Court and approved by the Transferring Court.
3. The timeline for reimbursement payments to be made by the Transferring Court to the Receiving Court.
4. A process for budget review and renegotiation.
5. A process to address costs not anticipated when the budget was drafted.
6. A process for the purchase and disposition of goods purchased by the Receiving Court for the Change of Venue Case.
7. A process for prorating and allocating certain costs between the courts when it is either difficult or impractical to distinctly separate those costs.
8. Signature by the presiding judges of the Transferring Court and the Receiving Court, or their designees.
9. If there is an application for funds in cases falling under California Penal Code section 987.9, the Transferring Court and not the Receiving Court is responsible for obtaining the appropriate funding from the Transferring County.

6.4 Equipment Purchases and Rental

Unless the MOU between the Transferring Court and the Receiving Court specifies otherwise, this section will apply to equipment used in the Change of Venue Case.

1. **Equipment Rental.** The Receiving Court may include in its budget: anticipated costs to lease or rent major and minor equipment, information technology equipment, and other goods needed for the Change of Venue Case.
2. **Equipment Purchase.** If purchasing is a significantly less expensive option than leasing or renting, the Receiving Court may purchase the equipment after obtaining the Transferring Court's written agreement on the following issues:
 - a. Type and cost of the equipment to be purchased by the Receiving Court,
 - b. Amount that the Receiving Court will be reimbursed by the Transferring Court for the equipment, and
 - c. Disposition of the equipment after the Change of Venue Case is completed.

6.5 Invoice Process

Unless the MOU between the Transferring Court and the Receiving Court specifies otherwise, this section will apply to invoices sent by the Receiving Court.

1. The Receiving Court must submit invoices for reimbursement consistent with the MOU.

2. Invoices for reimbursement must be accompanied by supporting documentation, such as a claim, vendor invoice, bill, statement, or time sheet.
3. A cover letter, signed by the Receiving Court's presiding judge, or his or her designee, must accompany each request for reimbursement. The cover letter must include the following statement: "The expenses requested for reimbursement by this court are expenses incurred because of the change of venue case."

6.6 Reimbursement Process

Unless the MOU between the Transferring Court and the Receiving Court specifies otherwise, this section must apply to payments made by the Transferring Court.

1. The presiding judge of the Transferring Court, or his or her designee, must authorize all payments for reimbursements of Change of Venue Reimbursable Costs from the Transferring Court's court operations fund.
2. Payments for reimbursements by the Transferring Court must be made in a timely manner, and consistent with the MOU.

6.7 Dispute Resolution

Although the MOU should sufficiently address issues arising from the change of venue, disagreements may still occur when the operational practices, economies, and costs differ between the courts. In the event of a disagreement regarding the change of venue (including a disagreement regarding costs), the Transferring Court and Receiving Court must resolve the dispute using the procedure specified in this section. The following processes should address these situations:

1. The presiding judges of both the Transferring Court and Receiving Court, or their designees, should first meet in person in an effort to resolve any disagreements.
2. If the presiding judges or their designees are unable to resolve the dispute, the parties will meet with the Transferring Court's Regional Administrative Director and the Receiving Court's Regional Administrative Director (if different), in an effort to reach agreement.
3. If after meeting with the courts' Regional Administrative Director(s) the dispute remains unresolved, the issue will be resolved by a panel composed of:
 - i. the Administrative Director of the Courts, or his or her designee,
 - ii. the Transferring Court's Regional Administrative Director,
 - iii. the Receiving Court's Regional Administrative Director (if different), and
 - iv. the AOC Director of Finance.

In such event, the panel will meet with representatives of each court, in person or via telephone. The panel will issue its written decision to the courts no more than 30 days after it has met with both courts' representatives. The panel's decision is final and binding on the courts.

6.8 Deficiency Funding

Unanticipated financial hardships may affect the Transferring Court's ability to reimburse costs associated with a Change of Venue Case. If the Transferring Court determines that it cannot reimburse Change of Venue Costs, the Transferring Court may submit a request for Cash Advance, Deficiency Funding, or Homicide Case Extraordinary Cost Reimbursement to the AOC through the currently established process. See Finance Memo TC 2005-007.

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7.0 Associated Documents

California Rules of Court, rule 4.155

California Rule of Court, rule 4.155 August 2007

Frequently Asked Questions

How many alternative sites does the AOC give the court of original jurisdiction?

The number of options depends on which courts indicate they can take the case. Generally, the AOC offers two or three alternative sites.

How long does it take for the AOC to identify these alternatives?

The AOC attempts to identify sites within two weeks. Occasionally the nature of the case makes it difficult to find a suitable court within that time. In all instances, however, the AOC finds alternative court sites as soon as possible.

How long does it take the judge to select a county after alternative sites are found?

The timing of the selection depends on many factors. Usually the judge discusses the alternatives with the parties' counsel and schedules the *McGown* hearing at the earliest convenience.

Who serves as the trial judge—the judge from the court where the trial originated or the judge from the receiving court?

The presiding judge, or his or her designee, must select a judge from the transferring court, unless he or she concludes that the transferring court does not have adequate judicial resources to try the case. If the presiding judge, or his or her designee, concludes that the transferring court does not have adequate judicial resources to try the case, he or she must request that the Chief Justice of California determines whether to assign a judge to the transferring court. If the Chief Justice determines not to assign a judge to the transferring court, the presiding judge, or his or her designee, must select a judge from the transferring court to try the case.

Factors Considered

A suitable court site should be able to handle news media, staffing needs, and security requirements related to the defendant or others (for instance, victim-groups or gangs). Demographic characteristics may also be an important consideration. Questions that may be asked of the court include:

- Can the court accommodate large numbers of media representatives?
- Are the accommodations for media representatives separate from those for jurors?
- Are there staffing considerations to be reviewed with regards to courtroom clerks and court reporters?
- Is there need for daily transcripts?
- Is the detention facility attached to or near the courthouse?
- Is there an adequate security staff to transport the defendant and serve in the courtroom?
- In the detention facility, is there an adequate security staff for suicide watch?
- Are there security issues with witnesses?