



Judicial Council of California • Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 17, 2013

Title	Agenda Item Type
Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases	Action Required
	Effective Date
	February 1, 2013
Rules, Forms, Standards, or Statutes Affected	Date of Report
Adopt Cal. Rules of Court, rule 4.220; adopt forms TR-500-INFO, TR-505, and TR-510	December 13, 2012
Recommended by	Contact
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Executive Summary

The Traffic and Court Technology Advisory Committees recommend establishing a pilot project authorizing trial courts to conduct remote video proceedings (RVP) in cases involving traffic infraction violations. In trial courts that institute RVP under the pilot project, defendants in eligible cases will be able to elect to appear at trial by two-way video from remote locations designated by the court. The proposed rule and implementing forms will enable courts to provide the public with ongoing access to court proceedings at a time when court resources are being substantially reduced and courthouses are being closed. The suggestion for the RVP pilot project originates from the Superior Court of Fresno County, which has recently been compelled to close several court facilities because of budget reductions.

Recommendation

The Traffic and Court Technology Advisory Committees recommend that the Judicial Council:

1. Adopt Cal. Rules of Court, rule 4.220, effective February 1, 2013, to authorize courts to establish pilot projects for RVP in traffic infraction cases; and
2. Adopt forms TR-500-INFO, TR-505, and TR-510, effective February 1, 2013, to assist the courts and the public in implementing and using RVP.

The text of the proposed rule 4.220 is attached at pages 14–19. Copies of the proposed forms are attached at pages 20–22.

Previous Council Action

The use of technology has previously been considered by the Judicial Council. The Commission on the Future of the California Courts recommended the use of video technology in justice proceedings in *Justice in the Balance: 2020*. Remote video technology was also a focus of the 1995 *Report of the Court Technology Task Force*. This Task force was predecessor to the Court Technology Advisory Committee. The task force identified nine technology goals, including:

To promote efficiency, access, convenience, and cost reduction, interactive video technology should be incorporated into all justice proceedings and administrative functions as permitted by law and consistent with the purposes of the judicial branch.¹

In August 1997, the Court Technology Advisory Committee presented a report to the Judicial Council titled *Report on the Application of Video Technology in the California Courts*.²

The report was primarily concerned with video arraignments. But it pointed out that arraignments were only one use of video technology and important benefits could be obtained by using this technology in other areas, including motions, mental health proceedings, and other pretrial matters.

Rationale for Recommendation

The proposal for the pilot project recommended in this report breaks new ground. The council has not previously adopted any rules or forms specifically relating to video trials. The main purpose of this proposal is to permit courts to use remote video technology to continue providing public access to certain proceedings when courts for budgetary reasons are no longer able to provide local court facilities where the proceedings may be conducted.

¹ Judicial Council of California, Court Technology Task Force, *Report of the Court Technology Task Force* (Jan. 25, 1995), page 25.

² The report was adopted by the Judicial Council at its August 22, 1997, meeting.

Courts are facing major fiscal challenges that threaten to reduce access for the public. For example, in fiscal year 2012–2013, the Superior Court of Fresno County is facing \$26.6 million in direct budget reductions and unfunded cost increases. The court has consolidated the operations of seven branch courts into three courthouses in the City of Fresno. As a result, more than 200,000 residents in Coalinga, Clovis, Kingsburg, Firebaugh, Reedley, Sanger, and Selma, and the surrounding rural areas, will have the increased cost and inconvenience of travel to downtown Fresno to conduct court business.

This situation imposes a hardship on county residents—many of whom have low incomes. Some will have to travel as far as 120 miles roundtrip for their court appearances. For those with private vehicles, the cost of travel will be high. For those without their own vehicles, public transportation is limited and costly. Court closures requiring long-distance travel will affect not only parties in cases but also witnesses and attorneys. Consolidating seven operations into three busy courts will affect all areas of court operations, from security screening to case calendaring.

The closure of local courts and consolidation of all cases to Fresno will also create administrative burdens, increased expenses, and staffing drains on law enforcement agencies that issue citations in the remote communities. If all traffic cases are consolidated to the downtown Fresno courthouse, law enforcement officers will have lengthy trips and costly overtime charges to appear at court hearings, with the associated impact that officers will have less time to devote to law enforcement activities to protect public safety on the highways.

For these and other reasons, community leaders throughout the county have expressed concern about the court closures, despite understanding the court’s budgetary constraints. The urgency of the situation has prompted the court to seek immediate solutions that will enable the court to continue to provide access to court procedures while operating with fewer facilities.

To address the problems faced by Fresno and other courts, this proposal recommends the adoption of a rule and forms that will authorize courts by local rule to establish pilot projects, through December 31, 2015, to permit RVP in cases involving traffic infraction violations.

Although this proposal was originally conceived as a legislative proposal, insufficient time remained in the 2012 legislative session to enact a bill authorizing RVP pilot projects this year. Because of the urgency of the situation, it was considered desirable to move ahead on this initiative as quickly as possible—developing a rule and forms, effective February 1, 2013. These actions are consistent with the Judicial Council’s rule-making authority and are not inconsistent with any existing statute or law, provided defendants requesting to appear remotely execute a voluntary and knowing waiver of rights; thus, the Judicial Council may take action promptly to adopt the proposed rule and forms.

This proposal is intended to assist the Fresno court, which identified the problems and possible solutions. But it will also assist other courts. Because others face similar conditions, it is appropriate to authorize not only Fresno but also other courts to use the same technologies and

methods to provide access to residents and alleviate burdens on law enforcement agencies in their jurisdictions.

Rule 4.220 authorizing RVP

Authorization for pilot projects. Proposed rule 4.220 would authorize courts by local rule to establish a pilot project for RVP in traffic infraction cases through December 31, 2015. (See rule 4.220(a)(1).) The authorization to establish a pilot project would be with the approval of the Judicial Council.³ To obtain approval of the council, a court must submit an application describing the procedures and the forms that the court intends to institute for processing cases in the pilot project. (See rule 4.220(a)(2).)

Definition of “remote video proceeding.” Rule 4.220 defines a “remote video proceeding” as an arraignment, trial, or related proceeding conducted by two-way electronic audiovisual communication between the defendant, any witnesses, and the court in lieu of the physical presence of both the defendant and any witnesses in the courtroom. (See rule 4.220(b)(2).) So the defendant and the witnesses may be in different locations.

Scope of the rule. The authorization for RVP in rule 4.220 applies to any alleged infraction of the Vehicle Code or any local ordinance adopted under the Vehicle Code, except an infraction cited under article 2 (commencing with section 23152) of chapter 12 of division 11 of the Vehicle Code⁴ or violations of the Vehicle Code filed with an informal juvenile and traffic court under sections 255 and 256 of the Welfare and Institutions Code. (See rule 4.220(b)(1).) Under rule 4.220, a defendant in traffic infraction cases is required to deposit bail before a remote video arraignment and trial set for the same date. (See rule 4.220(f)(1).)

Application. The rule applies to RVP under the rule for proceedings set for a date after January 31, 2013. (See rule 4.220(c).)

Designation of locations and presence of court clerk. The rule provides that courts must designate the location or locations at which defendants may appear with any witnesses for RVP in infraction cases. (See rule 4.220(d)(1).) The locations must be in a public place, and the RVP must be viewable by the public at the remote locations as well as at the courthouse. (See rule 4.220(d)(2).) The rule also requires that a court clerk be present at the remote location for all RVP. (See rule 4.220(d)(3).)

Scope of court pilot project and request by defendant. The rule provides for procedures and required forms that courts must include in the pilot project. In addition to following standard

³ To fully implement this proposal, courts will need guidance on the procedures to be used for obtaining council approval to establish a pilot project. Such guidance will be developed in the near future in consultation with the appropriate council committees and other bodies.

⁴ The exclusion of infractions under article 2 of chapter 12 of division 11 relates to alcohol and drug infraction violations in vehicles.

provisions for processing traffic infractions, defendants may request to proceed by RVP as provided in rule 4.220. (See rule 4.220(e).) Each defendant who elects to proceed by RVP must submit to the court a signed notice of rights and waiver form, *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510). (See rule 4.220(e)(1)(B), (e)(2)(B), and (e)(3)(B).) The form must be filed with the clerk by the appearance date indicated on the *Notice to Appear* traffic citation or a continuation of the date granted by the court. (See rule 4.220(e)(1)(B), (e)(2)(B), and (e)(3)(B).) A defendant who is dissatisfied with the judgment in RVP may appeal the judgment within 30 calendar days of entry of the judgment as provided in Rules of Court, rules 8.901 and 8.902. (See rule 4.220(e)(1)(C) and (e)(3)(C).) The rule specifies the three mandatory Judicial Council forms to be adopted to implement the pilot projects approved under the rule. (See rule 4.220(e)(4).)

Deposit of bail. Defendants who request to proceed by remote video arraignment and trial on the same date under rule 4.220 for traffic infraction cases must at the same time deposit bail by the appearance date indicated on the *Notice to Appear* or a continuation of the date granted by the court. The defendant must deposit bail with the clerk with the *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial*. (See rule 4.220(f)(1).) If a defendant requests a remote video trial on a date that is separate from the arraignment, the court may require deposit of bail when the defendant submits a *Notice and Waiver of Rights and Request for Remote Video Proceeding*. (See rule 4.220(f)(2).)

If a defendant is found not guilty or if the charges are otherwise dismissed, the amount of the bail deposited, if any, must be refunded to the defendant within 30 calendar days without accrual of any interest until 60 days after judgment as provided in Vehicle Code section 42201.6(c).

Appearance of witnesses. On receipt of the defendant's written waiver of rights and request to appear, the court may permit witnesses to testify at the remote location. Under rule 4.220, the court may permit law enforcement officers and other witnesses in traffic cases to testify in court and be cross-examined by the defendant from the remote location. Thus, the location of witnesses is in the discretion of the trial court. (See rule 4.220(g).)

Authority of the court to require physical presence of defendant and any witnesses. Nothing in the rule is intended to limit the authority of the court to issue an order requiring the defendant or any witnesses to be physically present in the courtroom for any offense or any proceeding or portion of a proceeding where the court finds that circumstances require the physical presence of the defendant or witness in the courtroom. (See rule 4.220(h).)

Extending due date. If the clerk receives the defendant's written request for a remote video trial by the appearance date indicated on the *Notice to Appear* traffic citation along with a deposit of bail as required by the court for a traffic infraction case, the clerk must, within 10 court days after receiving the defendant's request, extend the appearance date by 25 calendar days and provide notice to the defendant of the extended due date on the *Notice and Waiver of Rights and*

Request for Remote Video Arraignment and Trial or Notice and Waiver of Rights and Request for Remote Video Proceeding with a copy of any other required forms. (See rule 4.220(i).)

Notice to arresting officer. The rule provides that, on receipt of the defendant's *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial or Notice and Waiver of Rights and Request for Remote Video Proceeding* and bail when required by the due date, if the request is granted, the clerk must provide a notice of the RVP to the arresting or citing law enforcement officer. (See rule 4.220(j).) The notice must specify the location and date for the RVP. The notice must provide an option for the law enforcement officer at least five calendar days before the appearance date to request to appear in court instead of at the remote location. (See rule 4.220(j).)

Due dates and time limits. The rule provides the applicable due dates⁵ and time limits, unless extended by the court. The court may extend any date, and the court need not state the reasons for granting or denying an extension on the record or in the minutes. (See rule 4.220(k).)

Ineligible defendants. If the defendant requests RVP and the clerk or the court determines that the defendant is ineligible, the clerk must extend the due date by 25 calendar days and notify the defendant by mail of the determination and new due date. (See rule 4.220(l).)

Noncompliance. If the defendant fails to comply with the rule (including submitting the bail amount under rule 4.220, signing and filing all required forms, and complying with all time limits and due dates), the court may deny a request for RVP and proceed as otherwise provided by statute. (See rule 4.220(m).)

Fines, assessments, and penalties. Rule 4.220 expressly provides that it does not prevent or preclude the court from imposing on a defendant who is found guilty any lawful fine, assessment, or other penalty, and the court is not limited to imposing money penalties in the bail amount, unless the bail amount is the maximum and the only lawful penalty. (See rule 4.220(n).)

Local rules and forms. The rule provides that a court establishing a project for RVP may adopt such additional local rules and forms as may be necessary or appropriate to implement the rules and the court's local procedures not inconsistent with the rules of court. (See rule 4.220(o).)

Collection of information and reports. The rule provides that each court that establishes a pilot project must institute procedures as required by the Judicial Council for collecting and evaluating information about that court's pilot project and must prepare semiannual reports to the Judicial Council that include an assessment of the costs and benefits of the project. (See rule 4.220(p).)

⁵ "Due date" is defined in rule 4.220(b)(3) as "the last date on which the defendant's appearance is timely under this rule."

Forms to implement the pilot projects

To implement the RVP pilot projects, three forms for traffic infraction cases are proposed for adoption.

1. Instructions to Defendant for Remote Video Proceeding (form TR-500-INFO).

This instruction form would provide essential information to defendants who may be eligible to request RVP in a pilot court. It includes information about the form or forms that must be completed and the procedures that must be followed. The instructions also provide a summary of the defendant's rights and expressly state the rights that the defendant will be waiving by voluntarily appearing for arraignment or trial by remote video means.

2. Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial (form TR-505).

The waiver form, which must be completed by every defendant electing to appear at a remote video arraignment and trial on the same date, summarizes the defendant's rights and includes an explicit waiver of those rights. The defendant must submit the completed form to the court to be eligible to appear at arraignment and trial on the same date by remote video means. The form includes a place for the defendant to indicate whether an interpreter is needed and for what language. Form TR-505 also has a place that specifies what required bail amount is enclosed with the form.

3. Notice and Waiver of Rights and Request for Remote Video Proceeding (form TR-510).

The waiver form, which must be completed by every defendant requesting to appear at a remote video arraignment or remote video trial not set for the same date, summarizes the defendant's rights and includes an explicit waiver of those rights. The defendant must submit the completed form to the court to be eligible to appear at arraignment or trial, which are on separate dates, by remote video means. The form includes a place for the defendant to indicate whether an interpreter is needed and for what language. Form TR-510 also has a place that specifies what bail amount, if required by the court to schedule a trial, is enclosed with the form.

Reports

The rule requires semiannual reports from the pilot courts, which would include evaluations and assessments of the costs and benefits of the projects. This information will assist the Judicial Council and the Legislature to determine whether RVP should be continued and possibly expanded in the future—and, if expanded, how this expansion may be done most effectively.

Comments, Alternatives Considered, and Policy Implications

Comments

Public comments and responses. The proposed rule and forms were circulated for statewide comment from October 19 to November 2, 2012.⁶ Of the 13 comments received, 5 agreed with the proposed changes, 5 agreed if modified, 1 did not indicate a position, and 2 opposed. The comment chart with the committees' responses is attached at pages 23–44.

Most of the commentators were supportive of the proposals, including the Superior Court of Fresno County,⁷ several other superior courts, and the Los Angeles County Sheriff's Department. Some even wanted to move ahead and expand the scope of pilot project at this time. For instance, three courts suggested extending the pilot to other types of cases beyond those proposed in the invitation to comment. (See comments 8, 10, 11, and 12.) Although expanding the use of RVP may be desirable in the long term, the current proposal is designed to be a pilot project; as revised after the comment period, this proposal applies only to certain specific proceedings relating to traffic infractions. Based on the experience with the traffic RVP in the pilot courts, on which the participants will report to the Judicial Council, the use of RVP may eventually be expanded to other types of proceedings. However, for the present, the committees support the pilot project limited to traffic infraction cases recommended in this report.

Two commentators, California Attorneys for Criminal Justice and the California Federation of Interpreters, opposed the proposal and recommended that the use of video proceedings be postponed to permit more time for further study, research, and input from experts. (See comments 1 and 2.) The committees do not recommend delaying this pilot project because it is needed to address the immediate adverse impacts of court closures on low-income defendants, law enforcement, and communities in general no longer served by local courthouses. The magnitude of the judicial branch budget reductions has forced rapid court closures and severely reduced access of the public to court proceedings for traffic citations. The immediacy of the problem does not allow deferral of the pilot program. In Fresno County, many of the affected persons have low incomes that prevent a deposit of bail and have poor access to public transportation. Without the RVP pilot program in Fresno County, low-income defendants may need to travel long distances to Fresno twice to have a separate arraignment and court trial without a deposit of bail.⁸

⁶ The proposal as circulated also included a separate rule authorizing a remote video pilot project in compulsory school attendance law proceedings and proposed two forms to implement that rule. As discussed further below, the education component has been dropped from the present proposal because the school districts in Fresno currently lack sufficient interest to establish a pilot; hence, the education rule and forms are not needed at this time. Also, the proposal as circulated included supporting legislation, which has also been dropped as unnecessary.

⁷ The Fresno court comment also included letters of support from local communities, which are attached at pages 45 to 55.

⁸ Of course, even in a court that has instituted a pilot project under rule 4.220, defendants who wish to exercise their right to appear in court and confront witnesses in person in the presence of a judicial officer may still elect to travel to the courthouse for the trial.

Commentators asked a number of specific questions about the procedures that would be used to implement the pilot projects. For instance, they asked how exhibits would be handled in RVP. (See comments 1 and 2.) Most procedural matters such as this are left to the discretion of the local courts where the pilot projects are established. With regard to documentary evidence, courts may provide for the submission of documentary evidence to support the case in chief before the proceeding. If documentary evidence is presented on the day of trial, a clerk at the remote location could scan documents to the judicial officer before or while a person is presenting. If an exhibit is not scannable, it may be placed in front of a camera—allowing the judicial officer and participants to view it. If the court orders an exhibit to remain with the court, the exhibit can be sent to the court through a predetermined process.

Commentators also asked whether law enforcement officers would be required to appear in the courtroom or at the remote location. (See comment 1.) Under the proposed rule of court, with approval of the court, a law enforcement officer appearing to testify for RVP may appear at either location. (Cal. Rules of Court, rule 4.220(g).) One commentator suggested that law enforcement should also be allowed to appear from a police station. (See comment 12.) The committees did not agree with this suggestion because they thought that the RVP location should be a neutral site, such as a local library, school, or municipal facility. Courts should appear neutral toward the interests of the public and law enforcement in providing a forum for criminal proceedings that avoids the appearance of favoring the interests of one side over the other. A police station is not recommended because it is not neutral and might give an appearance to the public that the court and the police are aligned together in prosecuting defendants. Forcing defendants to choose between appearing locally at a police station or travelling to a distant court may create a sense of bias and intimidation for the public and significantly reduce the appeal and use of the RVP option.

Another commentator asked how it will be determined that an interpreter is needed, and if one is needed, where the interpreter would be located. (See comment 2.) Under the rule, if a defendant chooses to appear for an RVP, the defendant must complete form TR-505 or TR-510. The forms, which explain the defendant's rights and the process, include a place for the defendant to request an interpreter and indicate what language needs to be interpreted. The court will determine from the forms if an interpreter is needed and arrange to have one present for the RVP. Each pilot court will provide interpreters as required by law.

In general, pilot courts will have discretion to determine what technology and staffing are needed to monitor the proceedings. The proceedings will be open to the public. A high-definition widescreen format camera and display could be placed in a position that would allow the judicial officer to view all participants at the same time. Security staffing arrangements will be determined by each court. Each pilot court can determine what measures are needed to ensure proper conduct of the participants at the video proceedings. Pilot courts may seek funding from

various sources and may be able to negotiate with local representatives for free use of municipal facilities and cost sharing.

Other comments and developments resulting in changes to the proposal. In addition to the formal public comments, a number of other important comments and suggestions were received—including comments and suggestions from the members of the Judicial Council’s Policy Coordination and Liaison Committee (PCLC) and its Rules and Projects Committee (RUPRO), who reviewed the proposal.⁹

For instance, there were some questions about the recommendation in the original version of the traffic rule that RVP consist exclusively of a procedure combining arraignment and trial and provide for a written request to waive deposit of bail before the combined video arraignment and trial was held. It was suggested that the rule should also allow remote video arraignments and trials that may be held separately. The committees agreed with this suggestion; so in response, proposed rule 4.220 has been modified to allow for separate arraignments and trials as well as for combined proceedings.

Another concern that was expressed is that the Fresno court apparently was contemplating using non-court employees to serve as deputy clerks at remote locations. The Fresno court has subsequently indicated that it no longer intends to use non-court employees at the remote locations. To clarify this issue for the pilot courts, rule 4.220 has been modified to include a provision stating that “[a] court clerk must be present at the remote location for all remote video proceedings.” (Rule 4.220(d)(3).)

Some concern was also expressed about the provision in rule 4.220 that would allow law enforcement officers and other witnesses to appear at the courthouse rather than the remote location. This provision has not been changed because it may sometimes be necessary or important for law enforcement and other witnesses to appear at the courthouse. However, it should be emphasized that such a courthouse appearance is at the discretion of the court. (See rule 4.220(g).) Appearance at the remote location is presumed in the rules. An officer who wants to appear at the courthouse rather than the remote location must request to appear there at least five days before the hearing. (See rule 4.220(j).) Also, the notice forms have also been revised to clearly warn the defendant that the court may permit the officer and other witnesses to appear at the courthouse when the defendant appears at the remote location.

Changes to the proposal in response to comments. As indicated above, in response to the comments, a number of important modifications have been made to the proposal. The main changes are summarized below:

⁹ Because the committees needed additional time to respond to these comments and modify the proposal, the Judicial Council’s consideration of this proposal was postponed from December 2012 to January 2013. As a result, it has been necessary to modify some of the effective dates in the proposal as well as the substantive provisions.

- The revised proposal for RVP will be limited to traffic infraction cases. The pilot for compulsory school attendance cases would be dropped, and no rule on school attendance proceedings would be included in the proposal presented to the council in January 2013. If there is interest in a truancy pilot project in the future, the rule on that subject can be considered again at that time.
- A provision has been added to the rule stating that a court clerk must be present at the remote location for all RVP. (See rule 4.220(d)(3).) Non-court employees would not be used to perform clerk's duties at remote locations. The Fresno court has agreed to this change in its plans for implementing the pilot project.
- Unlike the original proposal that envisioned that all RVP in traffic infraction cases would involve a combined remote video arraignment and trial, the revised proposal also provides courts with a second procedure: a court would also be able to have separate remote video arraignments and trials rather than always combining the arraignments and trials. (See rule 4.220(e)(2)–(3).) If the combined alternative is used, defendants would have to deposit bail at the same time that the request for a combined arraignment/trial is filed. (See rule 4.220(f)(1).) This is consistent with statutory provisions in Vehicle Code section 40519 for requesting a same-day arraignment and trial. When a remote video trial is scheduled for a separate date from the arraignment, the court may require deposit of bail. (See rule 4.220(f)(2).) A payment of bail would not be required to schedule a remote video arraignment on a date that is separate from the date for a trial. This approach is consistent with court practice for appearance at arraignment that takes place prior to scheduling a trial.
- The RVP pilot project would commence effective February 1, 2013, and continue until December 31, 2015. Courts that want council approval to establish a pilot program would be required to submit an application that includes information about the procedures and forms that the court intends to institute for processing cases in its pilot project.

The following changes have been made to the proposed forms:

- The set of proposed forms have been revised to provide information about the alternative procedures available and to provide two different forms for RVP request and waiver of rights—one for combined arraignments and trials and another for separate arraignments and trials. The previously proposed rule provision and the confidential form to request waiver of deposit of bail would not be included in the revised proposal.
- Form TR-500-INFO has been revised to reference Penal Code section 1214.1 regarding civil assessments and rules 8.901–8.902 of the California Rules of Court regarding appeals.

- Form TR-505 was circulated as form TR-500 and has been renumbered. The form has been revised to add a field for a clerk to insert the bail amount and due date for filing, a declaration by the defendant under penalty of perjury, an acknowledgement that the defendant agrees to appear for related proceedings as ordered by the court, and a warning of possible penalties for failure to appear as promised.
- Form TR-510 was circulated as a form to petition for waiver of bail. The waiver of bail form has been replaced by a new form for defendants to request a remote video arraignment or trial when the arraignment and trial are set for separate dates. The form includes a place to indicate the amount of bail if required by the court to schedule a trial date that is separate from the arraignment date. No deposit of bail is required to schedule an arraignment on a separate date from a trial date.
- Forms TR-505 and TR-510 have been revised to expand notices to the defendant that the court may permit the officer that issued the ticket and other witnesses to appear in court to testify and be cross-examined while the defendant appears at the remote location.

Finally, in addition to the changes in the rule and form described above, the committees no longer recommend including legislation in this proposal:

- While it may be appropriate to consider proposing legislation of statewide application on RVP in the future, the revised proposal to be sent to the Judicial Council in January 2013 does not include any proposal for legislation to be introduced at this time. Instead, the decision regarding what legislation to recommend, if any, would be made in the future based on the experience of the pilot courts under the new rule authorizing an RVP pilot project in traffic infraction cases.

Alternatives Considered

As mentioned previously, this proposal was originally conceived as a legislative proposal. But because insufficient time remained in the 2012 legislative session to introduce and enact a bill authorizing pilot RVP in 2012 it was not possible. An alternative considered was to wait to seek legislation authorizing the pilot projects. But because of the urgency of the situation, it was deemed desirable to move ahead as quickly as possible—developing a rule and forms, effective February 1, 2013. Because these actions are consistent with the Judicial Council’s rule-making authority and are not inconsistent with any existing statute or law provided defendants execute a voluntary and knowing waiver of rights, the Judicial Council may take action promptly to adopt the proposed rule and forms.

In addition, the original version of the proposal included a rule authorizing RVP pilot projects in cases involving violations of compulsory school attendance laws. Because of a lack of current interest in pursuing such a pilot program in Fresno, no pilot is contemplated at this time; hence, the committees are not currently recommending the adoption of any rule on this subject.

Implementation Requirements, Costs, and Operational Impacts

To implement the pilot projects established under the proposed rule, collaboration between courts, local cities and counties, law enforcement, and members of the public will be required. There will be a need for planning and the allocation of resources—including physical locations, technology, and staffing. There may also be a need to provide security for RVP at the local community facilities and to provide information to the public.

It should be emphasized, however, that the pilot projects are purely voluntary. The courts and agencies in each local community will determine if a pilot project for RVP is appropriate in their situation. They will determine if the benefits outweigh the costs. Although there will be some additional expenses to establish the projects, there will also be savings for the courts from the reduced costs of maintaining court facilities and, for the public and law enforcement, from reduced travel time and expense. Especially important, access to the courts will be preserved for many who might otherwise lose this access.

Finally, because the proposed RVP projects are to be established as pilot projects, with a requirement for evaluations and reports, the entire court system and the state will benefit from the experience with these initiatives.

Attachments

1. Cal. Rules of Court, rule 4.220, at pages 14–19
2. Forms TR-500-INFO, TR-505, and TR-510, at pages 20–22
3. Comment chart, at pages 23–44
4. Fresno letters of support, at pages 45–55

Rule 4.220 of the California Rules of Court is adopted, effective February 1, 2013, to read:

1 **Rule 4.220. Remote video proceedings in traffic infraction cases**

2
3 **(a) Authorization for pilot project**

4
5 (1) With the approval of the Judicial Council, a superior court may establish by
6 local rule a pilot project through December 31, 2015, to permit arraignments,
7 trials, and related proceedings concerning the traffic infractions specified in (b)
8 to be conducted by two-way remote video communication methods under the
9 conditions stated below.

10
11 (2) To obtain approval of the Judicial Council to conduct a pilot project for remote
12 video proceedings under this rule, a court must submit an application to the
13 council that includes details on what procedures and forms the court intends to
14 institute for processing cases in the pilot project.

15
16 **(b) Definitions**

17
18 For the purposes of this rule:

19
20 (1) “Infraction” means any alleged infraction involving a violation of the Vehicle
21 Code or any local ordinance adopted under the Vehicle Code, other than an
22 infraction cited under article 2 (commencing with section 23152) of chapter 12
23 of division 11 of the Vehicle Code, except that the procedures for remote video
24 trials authorized by this rule do not apply to any case in which an Informal
25 Juvenile and Traffic Court exercises jurisdiction over a violation under sections
26 255 and 256 of the Welfare and Institutions Code.

27
28 (2) “Remote video proceeding” means an arraignment, trial, or related proceeding
29 conducted by two-way electronic audiovisual communication between the
30 defendant, any witnesses, and the court in lieu of the physical presence of both
31 the defendant and any witnesses in the courtroom.

32
33 (3) “Due date” means the last date on which the defendant’s appearance is timely
34 under this rule.

35
36 **(c) Application**

37
38 This rule establishes the minimum procedural requirements and options for courts
39 that conduct a pilot project for remote video proceedings for cases in which a
40 defendant is charged with an infraction as defined in (b) and the defendant’s request
41 to proceed according to this rule is for a trial or related proceeding that is set for a
42 date after January 31, 2013.

1 **(d) Designation of locations and presence of court clerk**
2

3 (1) The court must designate the location or locations at which defendants may
4 appear with any witnesses for a remote video proceeding in traffic infraction
5 cases.
6

7 (2) The locations must be in a public place, and the remote video proceedings must
8 be viewable by the public at the remote location as well as at the courthouse.
9

10 (3) A court clerk must be present at the remote location for all remote video
11 proceedings.
12

13 **(e) Scope of court pilot project and request by defendant**
14

15 The following procedures and required forms in this section must be included in the
16 court's pilot project for remote video proceedings. In addition to following the
17 standard provisions for processing traffic infraction cases, the defendant may request
18 to proceed by remote video proceeding as provided below.
19

20 (1) Arrest and trial on the same date
21

22 The following procedures apply to a remote video proceeding when the court
23 grants a defendant's request to have an arraignment and trial on the same date:
24

25 (A) The defendant must review a copy of the *Instructions to Defendant for*
26 *Remote Video Proceeding* (form TR-500-INFO).
27

28 (B) To proceed by remote video arraignment and trial, the defendant must sign
29 and file a *Notice and Waiver of Rights and Request for Remote Video*
30 *Arrest and Trial* (form TR-505) with the clerk by the appearance
31 date indicated on the *Notice to Appear* or a continuation of that date
32 granted by the court and deposit bail when filing the form.
33

34 (C) A defendant who is dissatisfied with the judgment in a remote video trial
35 may appeal the judgment under rules 8.901–8.902.
36

37 (2) Arrest on a date that is separate from a trial date
38

39 The following procedures apply to a remote video proceeding when the court
40 grants a defendant's request to have an arraignment that is set for a date that is
41 a separate date from a trial date:
42

- 1 (A) The defendant must review a copy of the *Instructions to Defendant for*
2 *Remote Video Proceeding* (form TR-500-INFO).
3
4 (B) To proceed by remote video arraignment on a date that is separate from a
5 trial date, the defendant must sign and file a *Notice and Waiver of Rights*
6 *and Request for Remote Video Proceeding* (form TR-510) with the clerk
7 by the appearance date indicated on the *Notice to Appear* or a continuation
8 of that date granted by the court.
9

10 (3) *Trial on a date that is separate from the date of arraignment*

11
12 The following procedures apply to a remote video proceeding when the court
13 grants a defendant's request at arraignment to have a trial set for a date that is
14 separate from the date of the arraignment:
15

- 16 (A) The defendant must review a copy of the *Instructions to Defendant for*
17 *Remote Video Proceeding* (form TR-500-INFO).
18
19 (B) To proceed by remote video trial, the defendant must sign and file a *Notice*
20 *and Waiver of Rights and Request for Remote Video Proceeding* (form
21 TR-510) with the clerk by the appearance date indicated on the *Notice to*
22 *Appear* or a continuation of that date granted by the court and deposit bail
23 with the form as required by the court.
24
25 (C) A defendant who is dissatisfied with the judgment in a remote video trial
26 may appeal the judgment under rules 8.901–8.902.
27

28 (4) *Judicial Council forms for remote video proceedings*

29
30 The following forms must be made available by the court and used by the
31 defendant to implement the procedures that are required by a court's pilot
32 project under this rule:
33

- 34 (A) *Instructions to Defendant for Remote Video Proceeding* (form TR-500-
35 INFO);
36
37 (B) *Notice and Waiver of Rights and Request for Remote Video Arraignment*
38 *and Trial* (form TR-505); and
39
40 (C) *Notice and Waiver of Rights and Request for Remote Video Proceeding*
41 (form TR-510).
42
43

1 **(f) Deposit of bail**

2
3 (1) If a defendant requests to proceed by remote video arraignment and trial as
4 provided in section (e)(1), the defendant must deposit bail, at the same time the
5 request is filed, in the amount established in the uniform traffic penalty
6 schedule under Vehicle Code section 40310.

7
8 (2) If a defendant requests to proceed by remote video proceeding for a trial as
9 provided in section (e)(3), the court may require deposit of bail, at the same
10 time the request for remote video proceeding is filed, in the amount established
11 in the uniform traffic penalty schedule under Vehicle Code section 40310.

12
13 **(g) Appearance of witnesses**

14
15 On receipt of the defendant's waiver of rights and request to appear for trial as
16 specified in section (e)(1) or (e)(3), the court may permit law enforcement officers
17 and other witnesses to testify at the remote location or in court and be cross-
18 examined by the defendant from the remote location.

19
20 **(h) Authority of court to require physical presence of defendant and witnesses**

21
22 Nothing in this rule is intended to limit the authority of the court to issue an order
23 requiring the defendant or any witnesses to be physically present in the courtroom in
24 any proceeding or portion of a proceeding if the court finds that circumstances
25 require the physical presence of the defendant or witness in the courtroom.

26
27 **(i) Extending due date for remote video trial**

28
29 If the clerk receives the defendant's written request for a remote video arraignment
30 and trial on form TR-505 or remote video trial on form TR-510 by the appearance
31 date indicated on the *Notice to Appear* and the request is granted, the clerk must,
32 within 10 court days after receiving the defendant's request, extend the appearance
33 date by 25 calendar days and must provide notice to the defendant of the extended
34 due date on the *Notice and Waiver of Rights and Request for Remote Video*
35 *Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*
36 *for Remote Video Proceeding* (form TR-510) with a copy of any required local
37 forms.

38
39 **(j) Notice to arresting officer**

40
41 If a court grants the defendant's request for a remote video proceeding after receipt of
42 the defendant's *Notice and Waiver of Rights and Request for Remote Video*
43 *Arraignment and Trial* (form TR-505) or *Notice and Waiver of Rights and Request*
44 *for Remote Video Proceeding* (form TR-510) and bail deposit, if required, the clerk

1 must deliver, mail, or e-mail a notice of the remote video proceedings to the arresting
2 or citing law enforcement officer. The notice to the officer must specify a location
3 and date for the remote video proceeding and provide an option for the officer to
4 request at least five calendar days before the appearance date to appear in court
5 instead of at the remote location.

6
7 **(k) Due dates and time limits**

8
9 Due dates and time limits must be as stated in this rule, unless extended by the court.
10 The court may extend any date, and the court need not state the reasons for granting
11 or denying an extension on the record or in the minutes.

12
13 **(l) Ineligible defendants**

14
15 If the defendant requests a remote video proceeding and the court determines that the
16 defendant is ineligible, the clerk must extend the due date by 25 calendar days and
17 notify the defendant of the determination and the new due date.

18
19 **(m) Noncompliance**

20
21 If the defendant fails to comply with this rule (including depositing the bail amount,
22 signing and filing all required forms, and complying with all time limits and due
23 dates), the court may deny a request for a remote video proceeding and may proceed
24 as otherwise provided by statute.

25
26 **(n) Fines, assessments, or penalties**

27
28 This rule does not prevent or preclude the court from imposing on a defendant who is
29 found guilty any lawful fine, assessment, or other penalty, and the court is not limited
30 to imposing money penalties in the bail amount, unless the bail amount is the
31 maximum and the only lawful penalty.

32
33 **(o) Local rules and forms**

34
35 A court establishing a remote video trial project under this rule may adopt such local
36 rules and additional forms as may be necessary or appropriate to implement the rule
37 and the court's local procedures not inconsistent with this rule.

38
39 **(p) Collection of information and reports on pilot project**

40
41 Each court that establishes a pilot project under this rule must institute procedures as
42 required by the Judicial Council for collecting and evaluating information about that
43 court's pilot project and must prepare semiannual reports to the Judicial Council that
44 include an assessment of the costs and benefits of the project.

1 **(q) Effective dates**

2

3 This rule is adopted effective February 1, 2013, and remains in effect only until
4 January 1, 2016, and as of that date is repealed, unless a rule adopted before January
5 1, 2016, repeals or extends that date.

INSTRUCTIONS TO DEFENDANT FOR REMOTE VIDEO PROCEEDING

A court may establish by local rule a pilot project to permit remote video arraignments and trials for traffic infraction cases. (Cal. Rules of Court, rule 4.220.) If the court where your case is filed is participating in the pilot project, you may be able to appear by video as allowed by local rule at a remote location designated by the court without having to appear in person at court. Remote video proceedings (RVP) are available in cases involving Vehicle Code infractions or local ordinances adopted under the Vehicle Code. The procedure does not apply to traffic offenses that involve drugs or alcohol or are filed in Informal Juvenile and Traffic Court. The procedure provides a convenient process for resolving cases by consideration of disputed facts and evidence with the use of two-way audiovisual communication between the court and a local facility. Defendants who requests to appear by RVP must waive (give up) certain rights that apply to trial of criminal offenses, including traffic infractions. The instructions below explain procedures for requesting RVP for traffic infraction cases:

1. To request arraignment and trial on the same day, you may file a *Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial* (form TR-505). To request RVP for arraignment or trial on separate days, you may file a *Notice and Waiver of Rights and Request for Remote Video Proceeding* (form TR-510).
2. Return the completed and signed form to the clerk with payment of the bail amount required by local rule or as ordered by the court. A completed form TR-505 or TR-510 with a deposit of the required bail payment must be received by the clerk by the appearance date on the Notice to Appear citation or continuation date granted by the court. If the form is received after the due date or without deposit of bail as required, the court may require a court appearance or bail deposit to schedule an arraignment or trial. **Failure to file the form and deposit bail as required by local rule by the due date may subject you to other charges, penalties, assessments, and actions, including a civil assessment under Penal Code section 1214.1 of up to \$300 and a hold on your driver's license.**
3. When the clerk receives a timely request for RVP with payment of the bail required by local rule or as ordered by the court, the court will rule on the request and provide notice of the court's decision on eligibility for RVP. If the court denies the request, the court may order you to respond within 10 court days of the notice of the order to schedule an arraignment or trial or appear in court. If the court approves the request, the court will notify you and the officer of the extended date and location to appear. The court may grant a request by the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while you appear at the remote location.
4. After a remote video trial is completed, if you are dissatisfied with the court's judgment, you may file an appeal under California Rules of Court, rules 8.901–8.902 within 30 days of the judgment. A new trial ("trial de novo") is not allowed. Always include your citation number in any correspondence with the court.
5. **IMPORTANT:** You have the right to appear for an in-person arraignment and trial at the court. If you appear at court for your case, your rights include:
 - The right to be represented by an attorney employed by you;
 - The right to request court orders without cost to subpoena and compel the attendance of witnesses and the production of evidence on your behalf;
 - The right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, to be advised of your rights, and to enter a plea;
 - The right to request that a trial be scheduled for a date that is after your arraignment in court;
 - The right to have a speedy trial;
 - The right to be physically present in court at all stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law at trial and sentencing; and
 - The right to have the witnesses testify under oath in court and to confront and cross-examine witnesses in court.

By voluntarily requesting to appear for arraignment and/or trial by RVP, you will agree to waive (give up):

- Your right to appear in person in court before a judicial officer for arraignment and/or trial;
- Your right to a speedy trial within 45 days; and
- Your right to be physically present in court for trial and sentencing and all stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination in person of the officer that issued the ticket and other witnesses.

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> DRAFT- NOT ADOPTED BY JUDICIAL COUNCIL
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT (Name):	
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO ARRAIGNMENT AND TRIAL (Veh. Code, § 40901)	CITATION NUMBER /CASE NUMBER: BAIL AMOUNT DUE DATE (For filing form)

Notice to Defendant of Rights:

- You have the right to appear in person in court before a judicial officer for arraignment, to be informed of the charges against you, to be advised of your rights, and to enter a plea.
- You have the right to request that a trial be scheduled for a date after your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

Waiver of Rights and Request for Remote Video Arraignment and Trial:

I, (*print name*) _____ am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP, I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in the courtroom and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights:

- My right to appear in person in court before a judicial officer for arraignment and trial on separate days;
- My right to a speedy trial within 45 days; and
- My right to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

I enclose bail of \$ _____ I need an interpreter: Yes No (*Language*): _____

I have an attorney to represent me: Yes No (*Name of attorney*): _____

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
Defendant's Signature

_____ _____ _____
Defendant's Phone Number Defendant's Street Address/City/State/ZIP Defendant's E-mail Address

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
Deputy Clerk

Hearing set for: _____ on _____ at _____
Type of Hearing Date Time

Location: [off-site location] [off-site location]

NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT- NOT ADOPTED BY JUDICIAL COUNCIL		
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT (Name):			
NOTICE AND WAIVER OF RIGHTS AND REQUEST FOR REMOTE VIDEO PROCEEDING (Veh. Code, § 40901)	CITATION NUMBER /CASE NUMBER: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;"> Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No </td> <td style="width:50%; padding: 2px;"> Due Date (For Form) </td> </tr> </table>	Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	Due Date (For Form)
Is Bail Required By Court? <input type="checkbox"/> Yes <input type="checkbox"/> No	Due Date (For Form)		

Notice to Defendant of Rights:

- You have the right to appear in person in court before a judicial officer for an arraignment to be informed of the charges against you, be advised of your rights, and to enter a plea.
- You have the right to request that a trial be scheduled for the same date as your arraignment.
- You have the right to a speedy trial within 45 days of submitting your request for a trial.
- You have the right to be physically present in court for trial and sentencing and all other stages of the proceedings including, but not limited to, presentation of testimony and evidence and arguments on questions of law.
- You have the right to have witnesses testify under oath in court and to confront and cross-examine them in court.

Waiver of Rights and Request for Remote Video Arraignment or Trial Under Rule _____:

I, (print name) _____ am the defendant in this traffic infraction case and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video proceeding (RVP) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. By requesting RVP I agree to appear at the designated off-site location and agree that the court may order me to appear in my case by RVP for any related proceedings. By requesting that the court allow me to proceed without being physically present in court and appear for all proceedings by RVP, I voluntarily elect to waive (give up) the following rights for (check one) arraignment trial:

- My right to appear for arraignment in person in court before a judicial officer and have a trial on the same day;
- My trial right to a speedy trial within 45 days; and
- My trial right after arraignment to be physically present in the court for trial and sentencing and all other stages of the proceedings, including, but not limited to, presentation of testimony and evidence and arguments on questions of law, and confrontation and cross-examination of witnesses in court.

I have read the *Instructions to Defendant for Remote Video Proceedings* (form TR-500-INFO) and request to appear by RVP in this case. I understand that the court may permit the officer that issued the ticket and any other witnesses to appear in court to testify and be cross-examined while I appear at the remote location and may deny my request at any time and order me to be present in the courtroom for any proceedings conducted in this case.

If bail is required for trial: \$_____ is enclosed. I need an interpreter: Yes No (Language): _____

I have an attorney to represent me: Yes No (Name of attorney): _____

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct. I promise to appear for all proceedings ordered by the court in this case. I understand that if I do not appear as promised the court may impose penalties, including a civil assessment of up to \$300 under Penal Code 1214.1, and report the failure to appear to the Department of Motor Vehicles for a hold on my license.

Date: _____ ▶ _____
Defendant's Signature

_____ _____ _____
Defendant's Phone Number Defendant's Street Address/City/State/ZIP Defendant's E-mail Address

Please return this form to the court clerk in person or mail to:

[Court location]

TO BE COMPLETED BY CLERK

Date: _____ Approved by: _____
Deputy Clerk

Hearing set for: _____ on _____ at _____
Type of Hearing Date Time

Location: [off-site location] [off-site location]

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Attorneys for Criminal Justice by Mr. Christopher Chaney President Sacramento, California	N	<p>The California Attorneys for Criminal Justice (CACJ), a statewide association of criminal defense attorneys, must regrettably oppose the current proposal to establish a pilot project for traffic and truancy violations. CACJ is concerned that this proposal is being moved too quickly and without sufficient evaluation, research and input from experts. While it is laudable to expand access to court proceedings, especially at a time when the judicial branch is experiencing significant budget cuts, this proposal requires more significant assessment before adoption. Additionally, reducing court proceedings to video exchanges compromises the core judicial tenant of confronting one's an accuser "face-to-face." Judicial Council made this proposal public just last month and expects approval in a matter of weeks.</p> <p>The judicial branch should not find comfort in calling this proposal a "pilot" as a means to overcome potential pitfalls and problems with a new process. This is the first time a trial will be handled by video. This change should not be taken lightly or rushed in response to budget considerations. One of the key advantages of the American judicial system is its steadfast commitment to live trials, where witnesses and accusers alike are subject to evaluation and cross-examination. We should not allow a fascination with technology to erode this principle.</p> <p>CACJ is on record opposing recent efforts by Judicial Council and others to expand the use of video appearances. We have consistently argued that this approach has shortcomings and urged evaluation of current practices. We have even offered to join a stakeholder contingent in visiting sites who currently</p>	<p>The magnitude of the judicial branch budget reductions has forced rapid court closures and severely reduced access of the public to court proceedings for traffic citations. The immediacy of the problem does not allow deferral of the pilot program in traffic infraction cases to a later time. In Fresno County, many of the affected persons have low incomes that prevent a deposit of bail and have poor access to public transportation. Without the remote video proceeding (RVP) program in Fresno County, low-income defendants may need to travel to Fresno twice to have a separate arraignment and court trial without a deposit of bail. Defendants who wish to exercise the right to appear in court and confront witnesses in-person in the presence of a judicial officer may still elect to deposit bail to schedule a court date and travel to the courthouse where the case is filed.</p>

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>employ a video appearance protocol.</p> <p>Despite our offer, to our knowledge there have been no arrangements made to schedule these visits. This proposal appears to be a first step to widespread video proceedings. CACJ is highly concerned that once again a video appearance proposal is being raised without the necessary evaluation and full collaboration with legal experts. CACJ's position is not simply dogmatic but is rooted in an unbending commitment to due process and a fair judicial process.</p> <p>Ultimately it is likely to be determined that video trials are unworkable and undesirable. Additionally, if the sole concern is expediency, then why not pilot proceedings where judges conduct calendars at these remote locations?</p> <p>CACJ urges the Judicial Council to postpone adoption of this proposal to allow for greater input of legal experts, stakeholders, and for a thorough review of practices from other jurisdictions.</p> <p>There are a number of questions that are as of yet unanswered. For example:</p> <ol style="list-style-type: none"> 1. How will exhibits be handled? How will a judge and individual be able to personally review items such as documents, charts, diagrams, and photographs that are frequently introduced during trial for traffic violations? How will the court authenticate these items? 	<p>Courts may choose to have judicial officers appear for court sessions at remote locations, if related administrative and budget issues can be addressed.</p> <ol style="list-style-type: none"> 1. Defendants may be able to submit documentary evidence to support the case in chief prior to the proceeding. If documentary evidence is presented on the day of trial, a clerk at the remote location could scan and send the scanned documents to the judicial officer before or while a person is presenting. If it is not able to be scanned, an exhibit may be

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>2. Will law enforcement officers be required to appear in the courtroom or at the remote location? If at the remote location, will court staff be placed onsite to prevent any form of intimidation or inappropriate communication/interaction? How will a judge be able to monitor witnesses etc. to identify inappropriate conduct?</p> <p>3. Will individuals who choose the remote location option have court fees reduced or waived? For example, the court construction fee was adopted by the legislature as a "user fee" which thereby established the requisite nexus to satisfy the legal test for a "fee" instead of a tax. Does this nexus still</p>	<p>placed in front of a camera – allowing the judicial officer and participants to view it. If the court orders an exhibit to remain with the court, the exhibit can be sent to the court through a predetermined process.</p> <p>The proposed rule on RVP has been revised to expressly provide that pilot courts must staff the proceedings with a court clerk at the designated remote location related to traffic proceedings as directed by the court. (See rule 4.220(d)(3).) A clerk at the remote location may authenticate documentary evidence.</p> <p>2. With approval of the court, a law enforcement officer appearing to testify for RVP may appear at either location.</p> <p>Each pilot court can determine what measures are needed to ensure proper conduct of the participants. Pilot courts will have discretion to determine what technology and staffing is needed to monitor the proceedings. A high definition wide screen format camera and display could be placed in a position that would allow the judicial officer to view all participants at the same time.</p> <p>3. Court fees for criminal proceedings, including traffic infractions, are mandatory. The court construction fee previously imposed under Penal Code section 1465.8 is now imposed for funding court operations. With the RVP procedure, there are still court operation costs</p>

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>exist if the individual appears remotely?</p> <p>4. Will witnesses, including but not limited to police officers, be required to appear at the remote location? Will they have an option? Would an individual or his/her attorney if represented be required to cross examine via video conferencing?</p> <p>5. How will plea forms be accepted at the remote location? Will court staff be required to be present?</p>	<p>related to the courtroom being used by a judicial officer to conduct the defendant’s RVP proceeding.</p> <p>4. If a defendant elects to proceed by RVP, witnesses will appear at the remote location, except that with the court’s permission, a law enforcement officer or other witness may appear at the courthouse where the judicial officer is located. If a law enforcement officer or other witness is not at the same location as the defendant, cross examination would occur by two-way video.</p> <p>5. The RVP procedure requires that the defendant complete form TR-505 to schedule a combined arraignment and trial to be conducted on the same date at the remote location or form TR-510 to schedule an arraignment or trial on separate dates. Form TR-500-INFO explains the defendant’s rights and the process. If form TR-505 or TR-510 is submitted as required, a court clerk will complete the form showing the trial date, sign the form, and return it to the defendant. The trial is then calendared for approximately 25 to 45 days from the request.</p> <p>A pilot court must staff RVP proceedings with a court clerk at the designated remote location related to traffic proceedings as directed by the court. (See rule 4.220(d)(3).)</p>

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>6. Will security officers be present at the remote location? Who will ensure the safety of those present at the remote location?</p> <p>There are far too many unaddressed questions and concerns to move this proposal forward.</p> <p>CACJ urges the Judicial Council to postpone its action until further review can be conducted.</p>	<p>6. Security staffing arrangements will be determined by each pilot court.</p> <p>The committees disagreed with this conclusion.</p>
2.	<p>California Federation of Interpreters Mr. Michael Ferreira President Santa Fe Springs, California</p>	N	<p>The California Federation of Interpreters, representing court interpreters in every county of the state, has concerns regarding the proposal to establish remote video trial project.</p> <p>CFI's concerns are driven by an unbending commitment to equal access to our court system. While many may dismiss traffic infractions and truancy violations as inconsequential, the judicial system must not compromise its integrity by moving forward a proposal that could unduly harm limited-English-proficient (LEP) Californians and deny them their "day in court."</p> <p>By moving forward so quickly on this the proposal, the Judicial Council risks overlooking key practical challenges and requirements. This letter is intended as a first overview of potential issues to be addressed before any "pilot" is established. CFI urges the Judicial Council to delay this proposal until greater public input can be solicited, opinions of experts can be collected, and the experience of other states fully explored. Otherwise, the judicial branch may regret its approach.</p>	<p>See response to comment 1 about the necessity for moving forward without delay. Responses to specific questions from the commentator follow below.</p>

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Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Nonetheless, below you will find a summary of issues to be further examined before moving forward with any proposal.</p> <ol style="list-style-type: none"> 1. How will it be determined that an interpreter is needed? If it is based on the initial notice, will the form be provided in languages other than English? Will those appearing at remote locations have the opportunity to request an interpreter in advance? Will the forms be translated by certified/registered interpreters? 2. The interpreter should be required to be physically present at the remote location to provide interpreting services. What special equipment will be needed in order to provide quality interpreting from the remote location? What kind of planning and protocols are needed to ensure that judge and the parties can communicate? 3. The courts should not impose an additional interpreter fee on those individuals who request remote appearances. 4. How will documents be transmitted between the courtroom and the remote location, in particular, those requiring signature of both the defendant and interpreter? <p>These are just a few of the issues that need to be</p>	<ol style="list-style-type: none"> 1. If a defendant chooses to appear by RVP, the defendant must complete form TR-505, or TR-510 which explains the defendant’s rights and the process and includes a place for the defendant to request an interpreter. The court will determine from the form whether an interpreter is needed and arrange to have one present for the RVP. Translated copies of the Judicial Council’s RVP forms will be made available to the public as provided in Vehicle Code section 40901. 2. Interpreters will be made available as provided by law. 3. No interpreter fee is authorized for criminal proceedings, including RVP proceedings. 4. Pilot courts may determine what procedures and technology are used to have documents signed and transferred between locations and delivered to defendants.

SP12-10**Trial Courts: Pilot Project Authorizing Remote Video Proceedings in Traffic Infraction Cases**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>addressed before adopting a proposal. The California Federation of Interpreters is willing to further discuss these issues with the Judicial Council. Thank you for your full consideration.</p>	
3.	<p>Los Angeles County Sheriff's Dept. Steve Biagini Chief's Aide Los Angeles, California</p>	A	<p>The Los Angeles County Sheriff's Department supports and applauds the proposed rule of court and legislation on video conferencing for traffic and truancy infractions.</p> <p>As an active Justice Partner, we encourage the use of and the expansion of video conferencing for criminal court hearings. In this case, video conferencing is the clear choice under the given circumstances. In order to avoid the long commute times and costs for defendants, witnesses and law enforcement personnel, video conferencing technology can easily provide the solution.</p> <p>In Los Angeles we utilize video conferencing for arraignment purposes from our main jail facility to a felony arraignment court in the downtown area. Recently, we were able to utilize the technology to arraign a defendant from a hospital bed in order to expedite the criminal process.</p> <p>With each step that we take to utilizing video conferencing with another segment of the Justice System the closer we will become to realize the true potential and the immense benefits of video conferencing.</p>	No response needed.

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	Commentator	Position	Comment	Committee Response
4.	Superior Court of California, County of Fresno Hon. Gary D. Hoff, Presiding Judge Ms. Tamara Beard, Court Executive Officer Fresno, California	A	<p>Thank you for acting so quickly upon our request to allow our Court a pilot project for traffic and SARB [School Attendance Review Board] trials. Our Court truly appreciates your diligence and attention to this important matter.</p> <p>We believe the proposed rules, forms, and legislation will eventually enable all California trial courts to provide the public with continuing access to court proceedings at a time when resources and local courthouses are being substantially reduced. Furthermore, this proposal will benefit other courts by authorizing them to utilize the same technology to ensure equal access for their constituents and also alleviate burdens on law enforcement agencies in those corresponding jurisdictions.</p> <p>If this proposal is adopted, the rules and legislation would require semi-annual reports from the pilot courts which will lead to new insight into the benefits of serving the public via innovative technology. It is our expectation that these evaluations and assessments will result in new methodologies for case and calendar management, greater cooperation with justice system agencies, and improved access to the courts by embracing technological developments with respect to two-way electronic audiovisual communication. These efforts are unprecedented in the California trial courts, and we have received the unwavering support of local municipalities for this proposition. Letters of support from each of the local government offices are attached to our original request.</p> <p>Thank you again for your efficient and agile response.</p>	<p>The pilot project in traffic will move forward. The court has decided to postpone its request for adoption of a rule and forms for SARB proceedings until there is at least one school that is able to commit to participating in a pilot program.</p>

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	Commentator	Position	Comment	Committee Response
			<p>Our customers in Fresno will be better served because of your efforts.</p> <p>[The comment included letters of support for the proposal that appear after the chart.]</p>	
5.	<p>Superior Court of California, County of Marin Ms. Kim Turner Court Executive Officer San Rafael, California</p>	A	No further comment.	No response needed.
6.	<p>Superior Court of California, County of Monterey Ms. Nona Medina Administrative Analyst Salinas, California</p>	NI	<p>The concept for allowing traffic hearings to be heard by remote video is a proactive approach to the downsizing and possible elimination of outlying court divisions, as given in Fresno’s situation.</p> <p>Questions: Remote Video Trial:</p> <ol style="list-style-type: none"> 1. More clarification on costs section “Implementation Requirements, Costs, and Operational Impacts”: Is the Court responsible for purchasing, setting up and maintaining a site that would be made available to the general public somewhere in our County? 2. Who will be responsible for securing equipment that is placed in the public location? 3. How will the Court’s current FTR recording work? Will it pick up the defendant’s comments clearly? 	<ol style="list-style-type: none"> 1. Pilot courts may be eligible for grant funds to cover costs for both the court and remote locations. If grant funds are not available, pilot courts may be able to negotiate with local representatives for free use of municipal facilities and cost sharing. 2. Pilot courts may negotiate agreements with local representatives to secure equipment at the remote sites. 3. A speaker phone located near the For the Record (FTR) recorder, in the remote location, may be used to transmit the audio loud enough

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			<p>4. Since the hearings are to remain open to the public, the Commissioner’s courtroom or designated location will need to accommodate public viewing of the video session...how will this be accomplished?</p> <p>5. How would exhibits be presented, handled?</p> <p>[Suggested change to Form MC-900, Notice and Waiver of Rights]:</p> <p>Waiver of Rights by Defendant I, (<i>print your name</i>): _____, am the defendant in this infraction case under the</p>	<p>to be picked up by the FTR. This procedure has been tested and did pick up defendant’s comments clearly.</p> <p>4. A high-definition, widescreen format camera and monitor can be placed in a position that will allow judicial officers and the public to view all participants.</p> <p>5. Defendants may be able to submit documentary evidence to support case in chief prior to the RVP or on the day of RVP.</p> <p>If documentary evidence is presented on the day of trial, a clerk at the remote location may scan the documents and send the scanned documents to the judicial officer before or while the exhibit is presented. If it is not able to be scanned, an exhibit may be placed in front of camera – allowing judicial officer and participants to view the exhibit. If an exhibit is ordered to remain with the court, it can be sent to the court, through a process that is consistent with appropriate procedures. The clerk at the remote location will authenticate documentary evidence.</p>

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			<p>Education Code and understand that my rights include those listed above and also the right to hire an attorney and subpoena witnesses. I understand that a remote video trial (RVT) uses two-way electronic audiovisual communication between the court and me at the remote location instead of having me physically appear in the courtroom. I understand that by requesting RVT, I agree to appear at the designated off-site location so that the court may permit me to appear in my case by RVT for any proceedings.</p> <p>I recommend this become effective upon signature by Governor and not be sought as urgency.</p> <p>[Commentator’s responses to specific questions in the Invitation to Comment]:</p> <p>Not sure whether the proposal would provide cost savings.</p> <p>All of the items already listed, in addition, time and resources to secure a public location, technical resource for surveying site for installation of equipment, modification to existing courtroom to accommodate video, updating and modifying forms in CMS, updating public website.</p> <p>Not sure how well the proposal would work in courts of different sizes.</p>	<p>The committees did not agree with this edit; the recommended language is clearer.</p> <p>The committees agreed that urgency legislation is not needed.</p>

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	Commentator	Position	Comment	Committee Response
7.	Superior Court of California, County of Orange Albert De La Isla Branch Manager Santa Ana, California	AM	<p>Orange County agrees with the proposed changes with the attached modifications. Specific suggested changes are embedded in the attached documents [proposed forms TR-500-INFO and [TR-505] and proposed Vehicle Code section 40904 for ease of reference. The comments attached are in regards to clarifications / additions needed as to the following:</p> <p>[Additional comments]:</p> <ol style="list-style-type: none"> 1. Clarification that this process is specifically for Arraignment and Court Trial and related trial proceedings, not for other traffic proceedings. 2. Clarification that the forms used for this process should include the defendant's intent to plead not guilty (VC 40519) on related forms. 	<p>In response to the court's comments:</p> <ul style="list-style-type: none"> • Form TR-500-INFO is revised to reference Penal Code section 1214.1 regarding civil assessments and California Rules of Court, rules 8.901-8.902 regarding appeals. • Form TR-505 is revised to add a declaration under penalty of perjury, an acknowledgement that the defendant agrees to appear as ordered by the court, and a warning of possible penalties for failure to appear as promised. • Proposed Vehicle Code section 40904 is not being recommended for enactment until the pilot program can be evaluated to determine if codification will be beneficial in the future. <p>The committees respond to the additional comments as follows:</p> <ol style="list-style-type: none"> 1. The RVP program is intended for arraignments, trials, and related proceedings. Pilot courts may consider whether additional proceedings after appearance for RVP may be ordered. 2. The RVP program is not strictly controlled by the requirements of Vehicle Code section 40519. Section 40519 provides for a deposit of bail when a defendant contacts the clerk or files a written not guilty plea and requests a court to schedule an arraignment and trial that are on separate dates or the same date. The RVP program requires a bail deposit when the defendant requests an appearance by RVP to schedule a combined arraignment and trial set

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			<p>3. Clarification as to the timelines for filing the request by the defendant and timelines for the court processing the request by mail.</p>	<p>for the same date. The RVP rule permits a court to determine whether to require deposit of bail when the defendant requests an RVP for a trial set for a date after an arraignment has taken place.</p> <p>3. Defendants must complete form TR-505 or TR-510 which explains defendants’ rights and RVP procedures, and file it by the date to appear or a continuance of the date. At the same time form TR-505 is filed, the defendant must submit payment of bail in full. The defendant may submit the forms in person at the courthouse or by mail. If the request is mailed, the court clerk will calendar the next available RVP and notify the defendant and officer who issued the citation of the date to appear at the designated remote location. If form TR-505 or TR-510 is submitted in person, the court clerk will complete the form showing the RVP date, sign the form, and return it to defendant. Defendant’s name is added to a list for RVP for a particular date. Cases would be calendared for a court trial generally 25 to 45 days from request. Defendants may submit documentary evidence to support their case in chief before the proceeding or at the time of trial. If a defendant fails to appear, the court may, among other things, declare the bail forfeited, report the failure to appear to the Department of Motor Vehicles, and impose a civil assessment of up to \$300 under Penal Code section 1214.1. After RVP, if the defendant is</p>

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			<p>4. Addition of a non-compliance process should the defendant fail to appear at the remote video proceeding when a petition for waiver of bail has been granted.</p> <p>5. In regards to [form TR-505], it is suggested that the form contain spaces for: the defendant’s email address for potential future electronic noticing and the entry of the defendant’s social security number so that it is available for collection purposes should the defendant be sentenced to a fine and fail to pay.</p> <p>[The comment included modified versions of forms TR-500-INFO and TR-500 and the proposed legislation.]</p>	<p>dissatisfied with the court’s judgment, the defendant may file an appeal within the statutory time.</p> <p>4. After a defendant fails to appear for RVP, the court’s options include: declaring the bail forfeited, issuing a bench warrant for the failure to appear, reporting the failure to appear to the Department of Motor Vehicles, and imposing a civil assessment of up to \$300 under Penal Code section 1214.1. The RVP procedure has been modified to eliminate the form to petition for waiver of bail. Courts may determine whether to require deposit of bail when a defendant files form TR-505 to request to appear for separate arraignment or trial by RVP.</p> <p>5. Form TR-505 is amended to add a field for collecting defendants’ e-mail address. Rule 1.20(b) of the California Rules of Court prohibits the appearance of social security number on a court filing such as form TR-505 or TR-510.</p> <p>The committee reviewed the changes proposed for the forms and incorporated changes as indicated above.</p>

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	Commentator	Position	Comment	Committee Response
8.	Superior Court of California, County of Placer Mr. Jake Chatters Court Executive Officer Roseville, California	A	<p>Thank you for the opportunity to comment on the proposed rules and forms for Remote Video Trial Pilot programs.</p> <p>We support the efforts of the Traffic Advisory Committee, the Family and Juvenile Law Advisory Committee, the Technology Advisory Committee, and the Superior Court of Fresno County in quickly developing these proposed rules and forms. The effort being made to preserve access to justice despite the challenging fiscal times is commendable and greatly appreciated.</p> <p>We support the rules and forms as prepared as they relate to holding a combined arraignment and trial in the defined proceedings.</p> <p>The proposed rules rightfully focus on the need for a designated location for the defendant and witnesses to appear for trial. This fixed location makes sense in these proceedings.</p> <p>We would request, however, that additional rules be provided that would permit a court to establish a pilot program for arraignment and other non-evidentiary proceedings in traffic infraction matters that do not require the defendant to appear at a pre-defined location. Such a program, similarly constructed as the rules here have been to allow the local court to define the logistical details, would allow for broader participation in short pre-trial hearings that may occur. Such a program would not hold a single arraignment/trial as the current rule proposal encourages.</p>	<p>The RVP pilot program was drafted in response to a request from the court in Fresno County. In response to the comments, an amended rule and additional form have been created to provide courts with more flexibility for RVP proceedings such as arraignment without trial and separate arraignment and trial as implemented in local rules.</p>

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			<p>This alternative would allow for courts to pilot either the single arraignment/trial concept or a more traditional separate arraignment and trial. The former allowing for full video appearance through trial at a fixed location and the second allowing for video only for pre-trial matters but not at a designated location.</p> <p>Should the Advisory Committees desire to explore this possible expansion, we would be willing to participate in the development of the expanded rules and forms.</p> <p>This comment is not intended to delay the adoption of these proposed rules. Thank you again for the opportunity to comment.</p>	
9.	Superior Court of California, County of Riverside Mr. Michael Cappelli General Counsel Riverside, California	A	This proposal if passed will also benefit the Limited English Proficiency community by providing greater access to an interpreter. This would help alleviate burdens on the LEP individual. This would expand the ability to use an interpreter that may be available in one of the two connecting locations participating in the RVT pilot.	No response needed.
10.	Superior Court of California, County of Riverside Mr. Tom Johnson Managing Attorney Riverside, California	AM	Riverside Superior Court requests that this trial program be expanded to include Riese hearings under W&I 5332 et seq. This would save judicial and clerical time, would eliminate transportation and security expenses and issues, and would help the court to meet the short time periods required by statute with the limited resources that are currently available (hearing within 72 hours of the petition being filed).	Development of RVP procedures for Riese hearings will require referral to the appropriate advisory committee for further study and public comment on draft legislation, rules, and forms.

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11.	Superior Court of California, County of San Mateo Ms. Rodina Catalano Deputy Court Executive Officer Redwood City, California	AM	<p>The following information is being submitted on behalf of the Superior Court of California, County of San Mateo regarding proposed California Rules of Court rule 4.220 - Authorization for Remote Video Trial Pilot Project in Traffic Infraction Proceedings.</p> <p>The overall concept of authorizing (not mandating) courts the option to offer and conduct remote video trials in traffic infraction cases is a good one. However, there are components of this proposal that either need further consideration, clarification, or that we feel would add to the already heavy workload in the traffic clerk's office, since most courts are working with drastically reduced staffing resources. Our comments and suggestions are below:</p> <ol style="list-style-type: none"> 1. It appears that this proposed process somewhat mirrors the Trial by Written Declaration (TBD) process, but it adds the ability for the defendant to request a fee waiver to avoid having to post bail to secure a court trial date. In Traffic, we typically do not receive or deal with fee waivers. If defendants request a TBD or a regular court trial without having to appear first for an arraignment, they are required to post the full bail before getting a date. The way they can avoid this currently is by appearing for an arraignment to plead not guilty and request a court trial - then the bail is not required. Offering the option for a fee waiver would create extra work for the traffic staff and/or judiciary in processing and reviewing the waivers and adhering to the specific deadlines, especially given the already high volume of correspondence/mail that Traffic receives. Additionally, since traffic fines 	<ol style="list-style-type: none"> 1. Vehicle Code section 40902 expressly requires a deposit of bail to have a trial by written declaration. Waiver of a traffic bail deposit is not the same as a fee waiver, which is controlled by Government Code sections 68630–68641. The RVP program has been modified to provide improved access to court proceedings for low-income defendants who are unable to deposit bail. The RVP procedure has been revised to permit courts to allow appearance at an arraignment without deposit of bail when the arraignment is set without scheduling a trial for the same date.

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			<p>have increased significantly over the years, we suspect that most defendants requesting a remote video trial would apply for a waiver regardless of whether they are eligible or not, just to see if they can avoid having to post the bail in advance of trial - especially in this economy. We would recommend eliminating the fee waiver option from the proposal.</p> <p>2. Consideration should be given to expanding the option for remote video trial to other non-vehicle code infractions that are often heard in traffic, such as local city and county ordinances (not just those adopted pursuant to the Vehicle Code).</p> <p>3. When courts are forced to close clerk’s offices, branches and/or courtrooms to consolidate functions and staffing resources in response to the ongoing budget cuts, it not only affects and inconveniences the public, it also impacts the law enforcement agencies and justice partners. As the proposal states, it creates an administrative burden, increased expense and staff drain on the law enforcement agencies. The officers will have longer trips to the remaining open courthouses and costly overtime charges to appear at court hearings, with an associated impact of officers having less time to devote to law enforcement activities to protect public safety. This proposal offers the option for a remote video trial <u>only</u> if the defendant requests and is granted to proceed in that manner. However, even if a defendant was not interested in appearing remotely, there should be some provision or</p>	<p>2. This suggestion is beyond the scope of the present proposal and may be evaluated in the future.</p> <p>3. In criminal cases, including traffic infraction cases, defendants have the right to confront all witnesses, including law enforcement officers, in open court before a judicial officer. A voluntary waiver of this right by a defendant requesting RVP is needed to permit a law enforcement officer or other witnesses to testify from the remote location instead of in open court before a judicial officer. Under proposed rule 4.220(g) and (j), a pilot court that receives a defendant’s request for RVP and waiver of rights may permit law enforcement officers or other witnesses to appear to testify at the defendant’s remote location or on request to appear and testify at the courtroom instead. When the defendant waives the right to cross examine the officer in-person, the court may permit the officer and other witnesses to testify</p>

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			<p>consideration given for law enforcement officers to request to appear remotely. This would help ensure that officers are able to stay on the streets to ensure public safety without having to travel unnecessarily to farther court house locations.</p> <p>4. Depending on what specific information is requested from the court, requiring courts to track and report remote video trial information to the Judicial Council is adding to the court's workload.</p> <p>5. The proposal states that there will be a need to train public employees to act as deputy court clerks and provide security for the remote video trials at the local community facilities. We assume this is to accommodate courts that are extremely short staffed and do not have the resources to provide a deputized court employee at the remote video trial to administer the oath, take and mark exhibits, file documents, etc. Are there any restrictions to what a trained public employee can or cannot do in this "acting deputy clerk" capacity? Would there be any concerns or conflicts of interest if the remote trials were conducted in the citing police agency's facility and the "acting deputy clerk" is an employee of the police department? Also, we assume any exhibits or court documents taken in at the remote location by a trained non-court employee would have to be forwarded or submitted to the court after the trial.</p>	<p>from the court instead of at the remote location in the presence of the defendant.</p> <p>4. It is necessary to evaluate and assess the costs and benefits of the pilot project to determine whether RVP programs should or should not be continued and possibly expanded in the future. Data collection may include, for example, the number of participants, the number of appeals on these cases, the outcome of appeals, and qualitative data pulled from exit surveys.</p> <p>5. The RVP procedure has been modified in response to comments to require the presence of a court clerk at the remote location for RVP proceedings. The RVP location should be a neutral site, such as a local library or municipal facility. The courts should provide a forum for criminal proceedings that avoids the appearance of favoring the interests of one side over the other. A police station is not recommended as it is not neutral and would give an appearance to the public that the court and police are aligned together in prosecuting defendants. Forcing defendants to choose between appearing locally at a police station or travelling to a distant court may create a sense of bias and intimidation for the public and significantly reduce the appeal and utilization of the RVP program.</p>

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			<p>6. Besides this remote video trial option being available only for Vehicle Code infractions or local ordinances adopted pursuant to the Vehicle Code (except DUI's), would it be up to each court to determine other eligibility requirements for granting a defendant's request for a remote video trial?</p> <p>7. The proposal indicates that the remote locations must be in a public place and the video trials must be viewable by the public at the remote locations as well as the courthouse. Just to clarify, does that mean any general member of the public who is not a party to the actual trial should be able to sit in and observe the remote video trial at the remote location and court facility, like other court hearings that are currently open to the public?</p> <p>8. It appears that if a defendant requests and is granted a remote video trial the officer would be required to also appear at the remote location, unless s/he submits a request to appear in court instead. Is there specific criteria that should be used in determining whether the officer should appear at the remote location with the defendant or be allowed to appear in court, or is it completely up to judicial discretion?</p> <p>Please feel free to contact me should you have any questions or need clarification regarding our comments. Thank you for the opportunity to provide input.</p>	<p>6. Courts that participate in the RVP program must follow the rules of court and use the required Judicial Council forms. A court may adopt additional local rules and forms that are not inconsistent with the rule of court and forms adopted by the Judicial Council. (See Gov. Code § 68071; Cal. Rules of Court, rule 10.613.) For example, a court could have a local rule with a distance requirement regarding eligibility for RVP.</p> <p>7. As a criminal proceeding, RVP is open to the public at both the courthouse and at the remote location. A high definition wide screen format camera and monitor can be placed in a position that will allow the judicial officer and the public to view all participants. The public would be able to observe the RVP at either the court or remote location.</p> <p>8. Each court may decide what circumstances and criteria permit a law enforcement officer or other witnesses to appear and testify for RVP at the court instead of at the remote location with the defendant.</p>

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12.	Superior Court of California, County of San Mateo Hon. Beth Freeman Presiding Judge Redwood City, California	AM	<p>Thank you for the opportunity to comment on the proposed rule to authorize remote video appearances for traffic infraction hearings. Our court supports the proposed rule and particularly supports the local option aspect of the rule. I believe that it is important to allow local courts the discretion to determine whether remote video appearances are beneficial in the local community and cost effective for the court.</p> <p>The modifications I suggest are as follows. I recommend that the rule specify that police officers may appear by remote video. The proposed rule is unclear on this point. Although it specifies that witnesses may also appear remotely, it may be subject to interpretation that only defendant's witnesses may so appear. Our local police jurisdictions are greatly impacted in the same manner as the public by increased travel time to court hearings and clarity on allowing police and other prosecution witnesses to appear remotely would be beneficial</p> <p>Second, I would request a modification to authorize the court to designate the remote location local police stations. I would also request that the rule authorize the courtroom clerk to swear in witnesses by video so that court staff would not need to travel to other locations. Security can be confirmed if all parties are allowed to appear in a police station and the court would be more likely to offer the remote video appearance if no additional staff was required. Police jurisdictions not wishing to participate would not be required to do so and all parties would be able to appear in court.</p> <p>I also anticipate that remote locations would only be</p>	<p>Under proposed rule 4.220(g) and (j) when a defendant elects to appear by RVP, a court may permit law enforcement officers and other witnesses to appear to testify at the remote location or on request appear and testify at the courtroom instead. When the defendant waives the right to cross examine the officer in-person, the officer and other witnesses may testify from the court instead of at the remote location in the presence of the defendant. In criminal cases, including traffic infraction cases, defendants have the right to confront all witnesses, including law enforcement officers, in open court before a judicial officer. A voluntary waiver of this right by a defendant is necessary to permit a law enforcement officer to testify from a remote location with the defendant instead of in open court before a judicial officer.</p> <p>The RVP location should be a neutral site, such as a local library or municipal facility. The courts should appear neutral towards the interests of the public and law enforcement in providing a forum for criminal proceedings that avoids the appearance of favoring the interests of one side over the other. A police station is not recommended as it is not neutral and would give an appearance to the public that the court and police are aligned together in prosecuting defendants. Forcing defendants to choose between appearing locally at a police station or travelling to a distant court may create a sense of bias and intimidation for the public and significantly reduce the appeal and utilization of the RVP</p>

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			<p>beneficial to the court if the local police jurisdictions paid for the video equipment required to sync with the court's video equipment. It would be unrealistic for our court to purchase, maintain and operate the equipment in remote locations. We would seek a rule that fully authorized the court to require localities to pay for the purchase and operation of their equipment.</p> <p>Absent these modifications, I cannot envision the utility of this rule in our county.</p>	<p>option.</p> <p>The proposed rules are intentionally silent on specific procedures and agreements that pilot courts can choose for processing RVP matters. As discussed above, the pilot courts will have discretion to determine what equipment best suits the local situation, and how to share costs for the program with local municipalities. Courts may be eligible for various grant funds to cover some program costs. A requirement for municipalities to pay for RVP program costs is beyond the scope of the proposal and would require further legislation</p>
13.	<p>Superior Court of California, County of Sonoma Mr. Jose O. Guillen Court Executive Officer Santa Rosa, California</p>	AM	<p>Rules and legislation should allow Pilot Courts to charge a nominal user fee to defray infrastructure and operating costs. This should be a non-refundable fee. I recommend starting at an amount not to exceed \$5.00 per transaction. The actual cost to be determined at the end of the pilot program and if expanded, said user [fee] should be adjusted. It should allow those courts wishing to defray their costs an opportunity to charge the fee and likewise, those courts wishing to provide that service at no cost, to not charge it.</p>	<p>Court fees for criminal proceedings, including traffic infractions, require express statutory authority. There is no specific statutory authority for a court to collect a fee for RVP proceedings. As such, the council may not adopt a rule that requires a fee until there is legislation to permit a fee. Those courts that will use a traffic assistance program (TAP) under Vehicle Code section 11205.2 may be able to adjust the TAP fee to cover actual TAP costs related to processing traffic defendants who participate in RVP proceedings. The committees do not recommend introduction of legislation until data from the pilot project is available to determine whether the procedure should be codified as a statewide option for trial courts.</p>



Superior Court of California County of Fresno

CHAMBERS OF
GARY D. HOFF
Presiding Judge

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October 30, 2012

Mr. Patrick O'Donnell, Supervising Attorney
Legal Services Office
Judicial Council of California - Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Pilot Project – Remote Video Trials

Dear Mr. O'Donnell:

Thank you for acting so quickly upon our request to allow our Court a pilot project for traffic and SARB trials. Our Court truly appreciates your diligence and attention to this important matter.

We believe the proposed rules, forms, and legislation will eventually enable all California trial courts to provide the public with continuing access to court proceedings at a time when resources and local courthouses are being substantially reduced. Furthermore, this proposal will benefit other courts by authorizing them to utilize the same technology to ensure equal access for their constituents and also alleviate burdens on law enforcement agencies in those corresponding jurisdictions.

If this proposal is adopted, the rules and legislation would require semi-annual reports from the pilot courts which will lead to new insight into the benefits of serving the public via innovative technology. It is our expectation that these evaluations and assessments will result in new methodologies for case and calendar management, greater cooperation with justice system agencies, and improved access to the courts by embracing technological developments with respect to two-way electronic audiovisual communication. These efforts are unprecedented in the California trial courts, and we have received the unwavering support of local municipalities for this proposition. Letters of support from each of the local government offices are attached to our original request.

Thank you again for your efficient and agile response. Our customers in Fresno will be better served because of your efforts.

Sincerely,

Hon. Gary D. Hoff
Presiding Judge

Tamara L. Beard
Court Executive Officer

GDH:kpa



155 W. Durian Avenue
Coalinga, CA 93210

Phone (559) 935-1533
FAX (559) 935-5912
www.coalinga.com

July 27, 2012

Ms. Jody Patel, Interim Administrative Director of the Courts
Judicial Council of California, Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Branch Court Closures & Support of the Pilot Project

Our rural community of 19,032 is located near the southwestern tip of Fresno County and approximately 70 miles southwest of Fresno.

The City was saddened when we heard the news of the court closures, as the Coalinga Court has operated out of the City since the 1970s. Not only is the Coalinga Court a valuable resource and community service, the loss of which will be deeply felt for years to come, but it is also a part of Coalinga's rich history!

As I am sure you are aware, California's approximately 400 RDAs were eliminated on February 1, 2012 as a result of the Supreme Court's decision in *California Redevelopment Association vs. Matosantos*, when the Supreme Court ruled to uphold AB1x 26. As required AB1x 26, Successor Agencies are to dispose of former redevelopment assets and properties as directed by the Oversight Boards. The Coalinga Oversight Board was in negotiations to sell the Court property to the Administrative Office of the Courts (the "AOC") for \$1.00 in order to meet this requirement and at the same time hoped to ensure that the Court remained in our community. Obviously the Superior Court of California's budgetary situation and the subsequent decision to close the branch courts halted those negotiations.

Although we do not agree with the decision to close the branch courts we very much appreciate the efforts of Judge Hoff and the alternative option of the pilot project to allow remote court appearances for infraction hearings and trials via video conferencing in order to overcome distance barriers for rural residents such as ours. We believe, as you do, that such a pilot project would be a worthy alternative to no court presence at all.

On behalf of the City Council of the City of Coalinga, we genuinely support the proposal and respectfully request your timely consideration and support of Judge Hoff's proposal.

Sincerely,

Ron Ramsey
City Manager, City of Coalinga

OFFICE OF THE MAYOR
Gary K. Yep



850 S. Madera Avenue
KERMAN, CA 93630

Council Members
Doug Wilcox
Raj Dhaliwal
Richard Stockwell
Jack Sidhu

Phone: (559) 846-9386
Fax: (559) 846-6199
www.cityofkerman.net

July 27, 2012

Josette Merced Bello
Court Grants Manager
Fresno Superior Court
1100 Van Ness Avenue
Fresno, CA 93724-0002

Subject: Two Pilot Video Conferencing Courts to Serve Rural Fresno County Communities

I am writing this letter of support for the proposed pilot courts to be located in two rural communities in Fresno County as requested by the Superior Court of California, County of Fresno. The recent closure of courts in rural communities and the pending consolidation of seven courts into three branches in the City of Fresno will result in more than 200,000 residents in Coalinga, Clovis, Kingsburg, Firebaugh, Reedley, Sanger, Selma, and the surrounding rural to be forced to travel to downtown Fresno to conduct court business – some as much as 120 miles roundtrip. This added travel will have severe impacts on rural residents throughout Fresno County.

The closure of these courts will not only impact rural defendants, litigants, witnesses, and attorneys but local law enforcement agencies as well. Small rural cities continue to struggle to balance budgets amidst the economic downturn and the added costs for gasoline and overtime pay for their police officer to appear in court in downtown Fresno will be difficult to sustain. Moreover, the additional travel time will divert officers from policing duties particularly in smaller police departments with limited staffing and dwindling resources.

As the Mayor of the City of Kerman, I strongly urge that you support the request for a one-year pilot project to allow for two remote courts serve the rural residents of Fresno County. In our technological age there is no reason why these services could not be provided via videoconferencing. To this end, I offer the City of Kerman as a possible rural site to serve as one of the two pilot courts.

Again, please consider this request and give us all a chance to work together to continue to provide public services in an innovative and efficient manner.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary K. Yep".

Gary K. Yep
Mayor

“COMMUNITY COMES FIRST”



City of Kingsburg

1401 Draper Street, Kingsburg, CA 93631-1908 (559) 897-5821 Fax (559) 897-5568

July 23, 2012

Ms. Jody Patel, Interim Administrative Director of the Courts
Judicial Council of California, Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

Bruce Blayney
Mayor

David Karstetter
Mayor Pro-tem

COUNCIL MEMBERS

Ben Creighton

Chet Reilly

Michelle Romar

Donald F. Pauley
City Manager

Dear Ms. Patel:

It has been brought to my attention that Presiding Judge Gary Hoff of the Superior Court of California, County of Fresno will be submitting to you a request that the Judicial Council of California consider at its earliest opportunity.

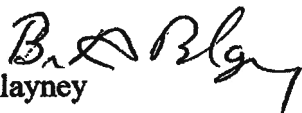
Judge Hoff's request is in the spirit of addressing problems resulting from the Court's recent decision to close all branch courts and consolidate the handling of all court cases into three courthouses in the City of Fresno. The Kingsburg City Council understands that the consolidation is a direct result of State-mandated budget reductions however the impact on the residents of Fresno County will be significant and may result in an injustice on those residents and the law enforcement agencies that serve them. This consolidation will result in roundtrip travel to Fresno of up to 120 miles and loss of income for our residents while having to attend court rather than working in a predominantly agricultural economy.

Judge Hoff is proposing that the Judicial Council consider granting the Fresno County Superior Court the authority to implement a pilot program that would allow rural defendants and litigants, law enforcement personnel and witnesses the opportunity to appear in court remotely via video conferencing. Remote appearance would be limited to traffic and other low level infractions cases and uncomplicated civil matters at two pilot courts, one on the eastside and one on the westside of Fresno County.

While not a total solution to the challenges facing the residents of Fresno County with the closure of the branch courts it would give them the opportunity to participate in the judicial process for minor cases without having to travel long distances and incur unanticipated expenses and loss of income.

On behalf of the City Council of the City of Kingsburg, we whole heartedly support the proposal and respectfully request your timely consideration and support of Judge Hoff's proposal.

Sincerely,


Bruce Blayney
Mayor



CITY OF MENDOTA

"Cantaloupe Center Of The World"

July 23, 2012

Ms. Jody Patel, Interim Administrative Director of the Courts
Judicial Council of California, Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

Ms. Jody Patel:

The City of Mendota is a rural community on the west side of Fresno County with a rich history based in agriculture, especially fruits and vegetables. These rich agricultural offerings provide people all around the world the food they need to sustain themselves and their families. While an abundance of produce still exists throughout this region, we, like other places within California, have been devastated by the economic downturn and its residual consequences.

The decision to close rural branches of the Fresno County Superior Court was one action that dealt an especially staggering blow to our struggling community. The cost that will be passed on to our local government, and ultimately to the citizenry that seeks equal justice under the law, will create a ripple effect that will damage the fiscal condition of our state proportionately more than it could ever repair it. While we are disappointed with the way these cuts were decided upon and announced, we recognize the need the State of California has in reducing its operational costs for judicial services.

The City of Mendota is working together with the City of Firebaugh and surrounding cities to ensure that residents in this region are being treated equally and our communities are working together. The City of Mendota supports finding the means necessary to maintain all branches of the Fresno Superior Court open so as to truly provide equal justice under the law. We urge the State of California to not ignore the unintended and devastating consequences that will inexorably affect the populace.

In the case that certain budgetary restrictions compel the State to enact cuts within the California justice system, The City of Mendota supports and encourages the implementation of other options that will mitigate the negative effects of such actions. An alternative that the City of Mendota supports is maintaining two branches of the Fresno Superior Court open in rural Fresno County, one each in the east and west sectors, in view of the fact that the outlying populations will be the most significantly encumbered by accessing geographically limited court services.

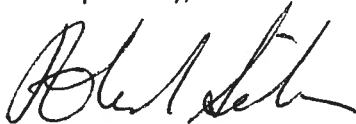
Even if such an alternative were to be deemed unfeasible, the Fresno Superior Court has suggested an option that would improve access to court services that would significantly lessen the burden: the establishment of a pilot program to measure the feasibility of providing court services for certain classes

of cases via teleconference. If this program is successful, Fresno Superior Court would seek the means to amend California Penal Code § 977 to allow "remote appearance courts" that would serve geographically disadvantaged communities, such as ours. The utilization of existing technology would at least create a situation in which members of outlying communities could exercise their rights within the justice system without being imposed upon by unwarranted expenses.

We encourage the exploration of viable options such as these and are sure that the invested entities like the City of Mendota, Fresno Superior Court, and the State of California can produce options that will benefit all the communities within Fresno County and the State of California.

Thank you for your consideration of this matter that is of such great importance to us and please do not hesitate to contact me if you have any questions or concerns. I can be reached at (559) 655-3291.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Silva". The signature is fluid and cursive, with the first name "Robert" being more prominent than the last name "Silva".

Robert Silva
Mayor of Mendota



C I T Y O F S E L M A

1 7 1 0 T U C K E R S T R E E T • S E L M A , C A L I F O R N I A 9 3 6 6 2

July 18, 2012

Judge Gary Hoff
Fresno Superior Court
1100 Van Ness Avenue
Fresno, CA 93724-0002

Dear Judge Hoff:

The City of Selma would like to express support for the two proposals that would allow the Fresno Superior Court to implement two pilot courts in which all parties, including defendants/litigants, attorneys and witnesses, participate in court hearings via video conferencing. The test would take place in two rural communities.

At present, the current proposal to move all courts into Fresno will place a fiscal and emotional hardship for residents that have to go to court. As you know, many of our residents in the Central Valley are on extremely limited income. Many cannot afford to travel to Fresno.

In addition, our police officers will now be required to travel to Fresno for court hearings. This will take officers off the street for longer hours and will be more costly to the City of Selma. In the current economy, cities are facing bare bones budgets and have limited staffing. The cost will impact us significantly.

We hope you will seriously look at the options being proposed by the Fresno County Courts and allow us to implement one of them.

Sincerely,

Kenneth Grey
Mayor



County of Fresno

BOARD OF SUPERVISORS

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District One

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Bernice E. Seidel
Clerk

July 23, 2012

Ms. Jody Patel, Interim Administrative Director of the Courts
Judicial Council of California, Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, California 94102-3688

Dear Ms. Patel:

It is our understanding that the Superior Court of California, County of Fresno is requesting to implement a pilot project to assess the viability of two remote appearance courts in traffic and truancy cases using video conferencing.

Fresno County is comprised of over 6,000 square miles with nearly 500,000 residents of fourteen cities and numerous rural communities living outside the City of Fresno. The Fresno Superior Court recently announced the closure of all branch courts outside downtown Fresno – meaning some Fresno County residents will have to travel over 130 round trip miles to access court services. As a county with one of the highest poverty rates in California, the adverse impact on our county residents cannot be overstated. We have the hope and expectation that leaders of our local judiciary will reconsider their decision to close all branch courts.

The capability of video conferencing access for residents in remote rural communities would be helpful even if our branch courts were to remain open. The process of court closures makes video conferencing and other mitigation measures essential.

For these reasons, we support the request of the Fresno Superior Court that the Judicial Council allow a pilot court project.

Respectfully yours,

Deborah A. Poochigian, Chairman

Enclosure

P.S. The attached letter provides greater detail of our concerns regarding access to justice for the residents of Fresno County.



County of Fresno

BOARD OF SUPERVISORS

Chairman Deborah A. Poochigian District Five	Vice-Chairman Henry Perea District Three	Phil Larson District One	Susan B. Anderson District Two	Judith G. Case District Four	Bernice E. Seidel Clerk
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July 23, 2012

The Honorable Gary Hoff
Presiding Judge
Superior Court of California, County of Fresno
1100 Van Ness Avenue
Fresno, CA 93724-0002

RE: Court Closures and Support for Pilot Project

Dear Judge Hoff:

The mission statement for the Superior Court of California, County of Fresno – as it appears on your website – includes the line “Fostering a vital court-community relationship that promotes equal access to the courts.” We believe that the decision to close all court facilities outside downtown Fresno conflicts with this vision for nearly 500,000 Fresno County residents who do not live in the City of Fresno. The closure of all branch courts will cause significant financial hardship to thousands of residents of our county who have matters involving the judicial system. While court officials have offered to enhance electronic access for the public, many residents of rural communities do not have access to computers or the Internet. Enclosed is a copy of a June 27, 2012 *Parlier Post* article about a recent community survey which shows that 75% of Parlier residents lack Internet access.

The Fresno County Board of Supervisors requests that you reconsider your previous decision, especially in light of the changed circumstances regarding the State’s plan to seize fund balances, and instead work with the impacted communities on a plan to achieve some relief for the rural residents by maintaining a physical presence in at least some of the outlying courts. By not closing Coalinga, Firebaugh and Reedley courts, you could mitigate the dire consequences of denying access to justice services in areas other than the Fresno metropolitan area. The State has provided you with the opportunity to revisit your earlier court closure decision and to reconsider the impacts on those with limited power and influence.

The fact sheet distributed with your closure announcement suggested that it is not fair or equitable to keep one branch court open while closing another. In other words, if one community suffers, all should suffer. We believe that if you worked with the impacted communities, an alternative, such as the one we are suggesting, would be more tolerable to the outlying communities than the court’s current plan.

We are willing to support your application to the Judicial Council for their consideration of a pilot project to assess the viability of two remote appearance courts in traffic and truancy cases. It is our expectation that there would be continued review, development, and implementation of other viable alternatives that would provide regional access to justice services for residents in all areas of Fresno County.

We remain most interested in assuring access to justice and minimizing inconvenience to residents and communities throughout our county which covers an area of nearly 6,000 square miles (much larger than Los Angeles County). We are also concerned about adverse economic and security impacts on local law enforcement and other county services.

On behalf of all residents in Fresno County, we request that you continue to consider all other viable options to the proposed closure plan. Removing barriers of access to our judicial system for residents of Fresno County is our primary concern, and we remain committed to working with you to address these important issues.

Respectfully yours,

Fresno County Board of Supervisors



Deborah A. Poochigian, Chairman

Enclosure

cc: Governor Jerry Brown
State Legislative Delegation
Chief Justice Tani G. Cantil-Sakauye
All City Mayors, City Councilmembers, City Managers, and Chiefs of Police in Fresno County
Paul Yoder, legislative advocate