

**Bench-Bar-Media Committee
Business Meeting**

**Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688
Judicial Council Conference Center, Redwood Room**

April 12, 2010

Minutes

Members Present: Hon. Carlos R. Moreno, Chair; Mr. Ralph Alldredge; Mr. Anthony P. Capozzi; Mr. Ed Chapuis; Ms. Karen Dalton; Hon. Peter Paul Espinoza; Mr. Rex S. Heinke; Hon. Jamie A. Jacobs-May; Mr. David Lauter; Hon. Judith D. McConnell; Mr. Greg Moran; Hon. William J. Murray, Jr.; Mr. Royal F. Oakes (*by phone*); Hon. Steven Z. Perren; Mr. John Raess; Ms. Kelli L. Sager; Mr. Peter Scheer; Mr. Stan Statham; and Mr. William C. Vickrey.

Members Absent: Ms. Cristina C. Arguedas; Mr. Steve Cooley; Mr. John Fitton; Dr. Félix Gutiérrez; Mr. Ronald G. Overholt; and Mr. Jonathan Shapiro.

Staff Present: Mr. Peter Allen and Ms. Claudia Ortega.

Additional Attendees: Administrative Office of the Courts (AOC) staff Ms. Ayanna Cage, Mr. Philip Carrizosa, Mr. Clifford Ham, Mr. Kenneth L. Kann, Ms. Leanne Kozak, Mr. Bob Lowney, Mr. Patrick O'Donnell, Ms. Teresa Ruano, and Ms. Linda Theuriet.

Item 1 Welcome and Introduction of Members

Committee chair, Justice Carlos R. Moreno, called the meeting to order at 10:00 a.m. and welcomed the committee members. Justice Moreno stated that because the last committee meeting's discussion was so fruitful, he has asked Justice Steven Z. Perren to facilitate this meeting. Members of the committee and AOC staff introduced themselves.

In honor of, and in preparation for his first meeting as a member of the Committee on Judicial Performance (CJP), Mr. Anthony P. Capozzi was sworn in as a new member of CJP by its chairperson, Justice Judith D. McConnell.

Item 2 Update from the Conflict Resolution Working Group

Working group lead, Justice McConnell, directed the members' attention to the document titled "Bench-Bar-Media Committee, Draft Recommendations" (dated 04-07-10) and provided an overview of the working group's two recommendations.

Recommendation 8 – Regional Public Information Officers (PIOs)

Regarding Recommendation 8, the committee members emphasized the need to clearly state in the committee’s final report that they are not recommending any program or change that will require the courts to expend funds to implement. The report will make clear that any new PIO positions would be entirely funded by the AOC and the new PIOs would be employees of the AOC. No revisions were made to the language of this recommendation.

Action: The committee unanimously approved Recommendation 8 as drafted.

Recommendation 9 – Regional Media Access Plan

Regarding Recommendation 9, Justice McConnell discussed the structure of the plan’s proposed regions and confirmed that they should parallel the AOC’s three regional offices.

The committee concluded that the recommendation’s language should explicitly state that the proposed regional access teams should be considered resources for courts that wish to have the team’s assistance. Justice McConnell confirmed that the presiding judge is the decision-maker regarding such matters.

Justice McConnell suggested that the committee request a legal opinion from the California Supreme Court’s Committee on Judicial Ethics Opinions to explore any ethical issues that may arise when a judicial officer speaks with another judicial officer about disputes involving media access. The committee discussed the following as they apply to judicial officers seeking advice from other judicial officers: California Code of Judicial Ethics, Canon 3(B)(7)(b); the American Bar Association Model Code of Judicial Conduct, Rule 2.9(A); and the California Judges Association’s Judicial Conduct Handbook. There was another suggestion to include in the recommendation a caveat that the trial judge consult with his/her presiding judge prior to consulting an external judge to avoid inappropriate ex parte communications. In the meantime, staff will incorporate footnote 1 into the body of the plan.

One member stated that the emergence of the “new” media is a percolating issue. The subject of how courts can properly identify legitimate reporters and provide appropriate access to court proceedings was discussed. Representatives from new news sources, like blogs, Twitter, and other social media forums, particularly raise the question of who is a legitimate journalist entitled to a courtroom seat. One member indicated that some courts in the County of Los Angeles use possession of a business license as an indicator of whether an individual or group is a member of the media. Justice Perren emphasized that the committee should consider two future conversations on this topic: one about members of the media who seek access to court proceedings and the other about the suggested qualifications journalists should possess to serve as members of the regional media access teams.

Justice McConnell stated that the working group also supports staff creating a list of judges with experience handling high-profile cases and who are willing to assist other judges with media access questions. Staff agreed to create such a list after consulting various committee members.

Actions:

1. Staff will revise the Regional Media Access Plan to explicitly state that the purpose of the proposed regional access teams is to act as a resource to courts that wish to have the team's assistance.
2. Staff will follow-up on obtaining a legal opinion from the California Supreme Court's Committee on Judicial Ethics Opinions regarding the scope and ethics of judicial officer to judicial officer communications.
3. In consultation with various committee members, staff will create a list of judges with experience handling high-profile cases and who are willing to assist other judges with media access questions.
4. The committee unanimously passed Recommendation 9 with the previously discussed minor changes to the language. (See attached.)

Item 3 Revised Recommendations of the Access to Court Proceedings Working Group

Justice Moreno introduced Mr. Ralph Alldredge, lead to the Access to Court Proceedings Working Group. Mr. Alldredge directed the members' attention to the document titled "Bench-Bar-Media Committee, Draft Recommendations" (dated 04-07-10). He then presented three recommendations and one statement developed by the working group. He emphasized that recommendations addressing sealing and gag orders are not intended to change the substance of the rules, but the procedures necessary to implement the rules. However, recommendations regarding inclusion of cameras in the courtroom are intended to change the presumption behind the rule so that the trial judge—while always allowed to make the final determination—will begin with the premise that cameras are allowed in the courtroom in service of the public interest; any objections should set forth a finding of harm that overrides the public interest.

Recommendation 1 – Sealing Orders

The committee discussed the scope of the Judicial Council's authority regarding subpart C of the recommendation providing for award of attorney's fees and costs to any party successfully challenging a sealing order or application for a sealing order. Mr. Patrick O'Donnell stated that historically, the council has not taken a position on substantive issues of law such as the award of attorney's fees. Rather, the council's purview is procedure. Because the council focuses largely on procedure, Mr. O'Donnell was not sure as to how the council could respond to subpart C. After discussion, the committee concluded that it would leave subpart C in the recommendation despite its focus on substantive law. Members noted that the council's Commission for Impartial Courts and other advisory groups have proposed recommendations regarding substantive law and asked for the council's support of such matters.

The committee continued to discuss subpart C, specifically whether it should only apply to civil matters and not to criminal cases. The committee determined that this subpart should be revised to clearly state that it only applies to civil matters.

Regarding subpart A, some members expressed concern that requiring courts to post all applications for sealing orders and final sealing orders may be interpreted as an infringement on local court autonomy and would ask courts that already face a dearth of resources to undertake additional work. Other members were concerned that by not posting all orders and applications, the courts will be seen as less transparent and this may lead to improper redaction or misplacement of files. Judge William J. Murray, Jr., lead to the Educational Programming Working Group, stated that education of judicial officers is one of the key recommendations of his working group; proper sealing of cases can be emphasized in educational sessions.

Another member suggested that the committee recommend that courts be required to either 1) forward all applications and orders to the AOC for posting on the judicial branch's Web site or 2) post these onto their local Web sites with the branch's site linking to these local sites or 3) undertake both options. It was also suggested that the orders and applications be maintained in one central online location to promote efficiencies and completeness. By listing all orders and applications, should a file be misplaced or improperly redacted, the court and the public will have a way to "cross-check" the court's records and locate any missing files. Mr. Alldredge stated that the intent of this recommendation is to provide notice to the public when an application to seal is made. It is likely the press will not choose to challenge all orders.

The committee then discussed possible time frames for posting orders and applications to Web sites and the propriety of posting orders given that 1) orders and references to sealed cases may be sealed, and 2) many of the courts do not have advanced technology that would permit easy posting and updating of such information.

One judicial member of the committee objected because she said that she did not want the courts vulnerable to criticism and supported a change to Rule 2.555 (E)(2). She stated that as a practical matter, it would be difficult to obtain fees from a civil or criminal attorney. The committee then discussed California Rule of Court, rule 2.550 et seq. and whether any rules need to be repealed given the committee's proposed recommendations.

The committee concluded that subpart A should be revised to state that courts can post notice of applications or entries of orders to their local court Web sites or to the judicial branch's Web site.

The committee did not request any changes be made to subparts B and D.

Actions:

1. Staff will revise the language of Recommendation 1(A) to reflect that courts can post notice of applications or entries of orders to their local court Web sites or to the judicial branch's Web site.
2. Staff will revise the language of Recommendation 1(C) to clearly state that it only applies to civil matters.
3. With one nay, the committee passed Recommendation 1 with the previously discussed changes to the language. (See attached.)

Recommendation 2 – Gag Orders

Following brief discussion, the committee approved revising the language of Recommendation 2(D) to mirror the language in Recommendation 1(A) regarding posting notice of applications or entries of orders to a Web site within 5 court business days.

Actions:

1. Staff will revise the language of Recommendation 2(D) to mirror the language in Recommendation 1(A) regarding posting notice of applications or entries of orders to a Web site within 5 court business days. (See attached.)
2. The committee unanimously approved Recommendation 2(A) and (B) as drafted.
3. With one nay, the committee passed Recommendation 2(C) and (D) with the previously discussed changes to the language.

Recommendation 3 – Use of Cameras and Other Recording Devices in the Court

Members considered this recommendation in light of Rule 1.150. The committee discussed the importance of making clear that the recommendation was not meant to address the electronic devices used by jurors. The members also determined that the recommendation should make clear that persons would still be required to ask for permission to use cameras and other recording devices. Accordingly, the committee approved modifying the recommendation to clarify that it applies to audio and visual recording devices operated by the media and general public. Members also requested the following change to the first sentence, "Amend CRC 1.150 to acknowledge that upon application the use of...."

Actions:

1. Staff will revise the language of Recommendation 3 to (1) clarify that persons would still be required to ask for permission to use cameras and other recording devices and (2) state that the recommendation applies to audio and visual recording devices operated by the media and general public. (See attached.)
2. With one nay, the committee passed Recommendation 3 with the previously discussed changes to the language.

Statement 1 – Reducing the Cost of Trial Transcripts

Mr. Alldredge provided an overview of Statement 1. Prior Judicial Council efforts in the area of court reporting services were briefly discussed. Mr. Alldredge explained that because the Judicial Council is not being asked to take any action concerning the cost of trial transcripts, the proposed text is a statement rather than a recommendation for council action (i.e., approval, rejection, consultation with court reporter leadership). Rather than asking the council to meet with court reporter leadership, the statement conveys that representatives of the California Newspaper Publishers Association and other media should meet with court reporter representatives regarding the cost of trial transcripts.

California Trial Court Facilities Standards

Mr. Alldredge directed the members' attention to the handout titled "California Trial Court Facilities Standards, 2006 Edition" (dated 03-01-10). He explained that in a prior conference call, the working group discussed with Mr. Clifford Ham (Principal Architect, AOC Office of Court Construction and Management (OCCM)) how the standards could possibly be updated to address the media's modern technological needs. Currently, the standards set forth broad guidelines regarding space and technological accommodations for the press. Because this subject had just barely been broached with the working group, it was placed on this agenda for further discussion with the full committee. Mr. Alldredge explained that some working group members suggested that courts install cameras in their courtrooms, and assign court staff to maintain and operate them. Members of the working group who represented the courts expressed that the purchase, installation, maintenance, and operation of cameras would be costly, even if only installed in certain courtrooms. These members also stated that the operation of cameras and distribution of the video would put the courts in the awkward role of film director. They instead suggested that the courts only be asked to have the necessary equipment and wiring for the media to connect with to obtain the video. Other working group members asked that there be a continuing dialogue with OCCM regarding the media-related standards.

Mr. Ham stated that OCCM would produce a new edition of the standards within 1 to 2 years and that his office would invite members of this committee to comment on it. He also clarified that it would not be feasible for the AOC to significantly retrofit existing courts.

Mr. Ed Chapuis suggested that costs could be lowered by selecting only one courtroom in each county for retrofitting. He also stated that the United States District Court, Northern District of California (located in San Francisco) successfully partnered with the local media to install cameras and updated technology to provide the press with courtroom video. He encouraged the members and staff to look at this example as a possibility for the California courts.

Item 4 Procedures for Bringing Recommendations Before the Judicial Council

Justice Moreno explained that because the committee is now closer to finalizing its recommendations, staff will begin to draft a final report that will eventually be submitted to the Judicial Council for its consideration. Justice Moreno introduced Mr. Kenneth L. Kann (Director, AOC Executive Office Programs Division) who discussed recommended procedures for presenting the final report to the council. Mr. Kann directed the members to the document titled “Bench-Bar-Media Committee Timeline 2008-2010 (version dated 04-07-10).

Mr. Kann and Mr. Peter Allen outlined the process for creation, review, and finalization of the final report. They stated that staff would draft the report and submit it to the committee via e-mail for its review and comment. After incorporating the committee’s feedback and upon approval of the chair, staff will post the report to the California Courts Web site and invite the public to provide comments. In August 2010, the committee would meet again to review the public’s comments and any resulting revisions to the report. After the committee has approved a final version, Justice Moreno, the working group leads, and staff will present the final report to the council in October or December 2010. If the council approves any recommendations that affect the Rules of Court, these recommendations will then be handled through the council’s rule-making process. This process involves the council’s Rules and Projects Committee, the Executive and Planning Committee, and possibly other council committees.

Mr. Kann recommended that the committee request that the council approve the final report and direct the Administrative Director to create an implementation body. Mr. Kann discussed the importance of setting forth the structure and responsibilities of the implementation body, as well as prioritizing the recommendations for council review. Because of the nature of some of the recommendations, it is possible that some may be forwarded for action to the council’s advisory bodies or other entities. Justice Moreno expressed his support for this approach and conveyed that the California Blue Ribbon Commission on Children in Foster Care, which he chaired, developed an action plan to implement approved recommendations.

Item 5 Possible Recommendation Concerning the Development of an Advisory Group to Implement the Approved Recommendations of the Committee

Justice Moreno and Justice Perren led the committee in a brief discussion of the need for the appointment of an implementation body after the council has approved the final report. They explained that the overall responsibility of such a group would be to guide the implementation of the committee’s approved recommendations. They stated that often former members of the committee are selected as members of the implementation body. The members agreed that the committee should recommend that an implementation body be created.

Action: Staff will draft a recommendation for the creation of an implementation body to guide the implementation of recommendations approved by the council.

Items 6 Prioritization of Committee Recommendations

Justice McConnell provided an overview of her experiences with the council’s Commission on Impartial Courts and that group’s process for drafting, prioritizing, and submitting numerous recommendations to the council. Justice Moreno provided an overview of his experiences with the California Blue Ribbon Commission on Children in Foster Care and that group’s procedure for designating responsible parties to implement their recommendations. Justice Moreno and Justice McConnell stated that their groups considered numerous factors when prioritizing their recommendations, including cost, staffing, feasibility, the need for change, the need to create new law or modify existing law and rules, collaboration with other agencies or branches, and potential political implications.

Item 7 Comment from the AOC Education Division/Center for Judicial Education and Research (CJER)

Mr. Bob Lowney (Senior Manager, AOC Education Division/CJER) expressed his and his colleagues’ appreciation to the committee for its work and attention to judicial and court staff education. Mr. Lowney highlighted current training programs in CJER that address management of high-profile cases that will benefit from the committee’s work as well as recent efforts to develop a new teaching model. CJER is interested in working closely with the implementation body to modify existing courses or launch new ones.

Judge William J. Murray, Jr., lead of the Educational Programming Working Group, clarified that the committee was also setting forth recommendations for the establishment of local regional academies, which would require the courts to also educate their staff and local stakeholders. So while some of the educational recommendations would likely fall under the aegis of CJER, other recommendations would fall to the superior courts for implementation and collaboration with their local media.

Judge Murray proposed that Recommendation 4 be revised to more strongly state the committee's desire to facilitate the creation of regional academies.

The committee also briefly discussed Recommendation 7, specifically the clause stating that court training materials should be provided in multiple languages. The language of this recommendation was altered at the October 2009 committee meeting. Judge Murray was not able to attend that meeting. This change should not be made as training materials for judges and court staff do not need to be provided in multiple languages. Furthermore, court training materials should not be placed on the Internet, but on Serranus as previously written in the recommendation. Judge Murray requested that the recommendation be changed back to its earlier version.

Actions:

1. Staff will revise the language of Recommendation 4 to more strongly state the committee's desire to facilitate the creation of regional academies. (See attached.)
2. Staff will change Recommendation 7 back to its earlier version.

Item 8 Next Steps

Mr. Allen explained that per the committee timeline, the committee should meet again in August or September 2010. After discussing some possible dates, Mr. Allen stated that staff would contact the members by e-mail to determine their availability for the next meeting.

Item 9 Adjournment

Justice Moreno thanked the members for their participation and Justice Perren for facilitating the committee's discussion. He adjourned the meeting at 2:00 p.m.

Attachment
Bench-Bar-Media Committee
Draft Recommendations

Access to Court Proceedings Working Group

Orders Sealing Records

- A. Adopt a rule requiring all courts to post notice of any application for, or entry of, an order sealing a record on their local Web site within 5 court business days after filing or entry or to send such notice to the Judicial Council for publication on its Web site;
- B. Provide judicial education regarding the proper process for determining when a record should be sealed as set forth in California Rules of Court rule 2.550 et seq.;
- C. Support statutory authorization specifically permitting the award of attorneys' fees and costs—in civil matters only—to any party successfully challenging an order sealing a record or an application for sealing a record, with such fees and costs to be paid by the party or parties making the application; and
- D. Develop a simple form that will facilitate pro per challenges to orders sealing records.

Gag Orders

Adopt a uniform statewide rule similar to those governing orders sealing records and consistent with the opinion in *Hurvitz v. Hoefflin* (2000) 84 Cal.App.4th 1232, which:

- A. Requires specific findings of a legitimate competing interest that overrides the public right of access and justifies some form of gag order;
- B. Limits the scope of any gag order to the narrowest restraint and shortest time period necessary to protect the overriding interest that has been identified;
- C. Provides a means for the public and the media to be notified of the filing of a gag order and given an opportunity to challenge at the earliest possible time any gag order that may be proposed or is entered; and
- D. Provides for public notice of any application for or entry of a gag order by posting on local court Web sites within 5 court business days after filing or entry or forwarding such notice to the Judicial Council for publication on its Web site in the same manner as recommended for applications or orders concerning the sealing of court records.

Use of Cameras and Other Recording Devices in the Court

- A. Amend California Rules of Court rule 1.150 to acknowledge that upon application the use of cameras and other audio and visual recording devices operated by the media and general public should be permitted in the courtroom as a matter of course to uphold the right of public access, unless after giving the requesting party adequate notice and an opportunity to be heard with respect to any objections to the use of such equipment in a given case, the court has made specific findings that a more

- compelling interest overrides the public interest and any restrictions placed upon the use of such equipment are no greater than necessary to protect that overriding interest.
- B. Provide court security personnel with a copy of any order entered concerning the presence or use of cameras or other recording equipment.

Reducing the Cost of Trial Transcripts for the Media

Statement: The Access to Court Proceedings Working Group has concluded that representatives of the California Newspaper Publishers Association and other media should meet with representatives of court reporters unions and/or associations and attempt to develop a special protocol and pricing formula, which could both provide court reporters with opportunities for additional income without jeopardizing their current right to compensation from litigants for preparing transcripts, and also give the media an opportunity to obtain limited partial transcripts at a reasonable cost to assist them in preparing accurate accounts of court proceedings for publication. If those representatives meet and are able to reach agreement upon a modification of the current system that requires some change in rules of court or California statute, they should make an appropriate joint recommendation to the judicial branch and/or the Legislature.

Educational Programming Working Group

Educational Content and Programs

Facilitate creation of educational content and programs to enhance relationships and cross-communication among the bench, bar, media, court staff, and public. The committee especially recommends that the Judicial Council facilitate the creation of regional superior court academies and provide the superior courts with resources for their development. In addition to the regional superior court academies, educational content and programs should also include local committees and online support materials. The content and programs should be designed for trial and appellate court justices, judges, and staff, as well as for the bar and press. (See Appendix A.)

Judicial Officer Training on Clear Presentation of Statements

Develop training for judges and justices on how to present clearly the meaning or substance of court decisions in a way that can be easily grasped by the media and the public. This training should address (1) when to prepare a statement and (2) how to prepare a statement.

Explanation of Legal Terminology

Encourage trial courts to post glossaries or explanations of legal terminology in multiple languages to their Web sites for the benefit of the media and broad public.

Additional Online Training Materials for Court Staff and Judges

Media-related training materials for the courts should be posted on a secure internal online site, such as Serranus.

Conflict Resolution Working Group

Regional Public Information Officers (PIOs)

At such time when funds are available, create and fund three public information officer positions, with one position assigned to each AOC regional office. The primary responsibilities of the three regional PIOs would include assisting local superior courts with the following: 1) coordination of media activities in high-profile cases; 2) response to other complex media situations; and 3) community outreach efforts and general media relations.

Resolving Conflicts Among the Bench, Bar, and Media

- A. Implement a Regional Media Access Plan to address conflicts among the bench, bar, and media regarding access to the judicial process. The goal of the plan is to assist the court in recommending ways to resolve disagreements quickly and amicably and to promote better working relationships among the bench, bar, and media. Three Media Access Teams would be assembled in three regions that correspond to the trial court regions supported by the regional offices of the AOC – the Bay Area/Northern Coastal Region, the Northern/Central Region, and the Southern Region.
- B. Seek the opinion of the Supreme Court’s Committee on Judicial Ethics Opinions (CJEO) to determine whether there are any ethical constraints on judges participating in such a plan. Specifically, seek clarification as to whether it is proper for a judge who has communicated with an attorney or media member with an interest in a particular case to offer advice or assistance to the judge sitting on that case. (See Appendix B.)

Appendix A: Recommended Educational Content

- A. Educational content and programs should include the following subjects for *justices, judges, other judicial officers, and court administrative staff*:
- 1) Judicial ethics in relation to communications with the media (judicial misconduct).
 - 2) Working with the media on high-profile cases.
 - 3) Cameras and other technology in court buildings, including the courtroom.
 - 4) Imposition of and scope of gag orders.
 - 5) Access to court records, courtroom, and sealed records.
 - 6) Developing and maintaining effective, long-term relationships with the local media.
 - 7) Nuts and bolts of reporting (how the media works, plain English, deadlines).
 - 8) Disclosure of information on jurors (voir dire, testimony, questionnaires).
 - 9) Court administration issues (sensitive inquiries to issues such as labor relations).
- B. Educational content and programs should include the following subjects for *counter and courtroom staff, and security personnel*:
- 1) Judicial ethics in relation to communications with the media (judicial misconduct).
 - 2) Working with the media on high-profile cases.
 - 3) Cameras and other technology in court buildings, including the courtroom.
 - 4) Media and the general public's access to court records, courtroom, and sealed records.
- C. Educational content and programs should include the following subjects for the *bar*:
- 1) Ethical restrictions – when you can and cannot talk about a case.
 - 2) Sealing of records (e.g. protective orders).
 - 3) Same as above for judges, just different perspective.
- D. Educational content and programs should include the following subjects for the *media*:
- 1) Access to court records, courtroom, and sealed records.
 - 2) Search warrants.
 - 3) Cameras and other technology in court buildings, including the courtroom.
 - 4) Gag orders.
 - 5) Access to jurors and juror information, anonymous juries, and guidelines for contact and interviews.
 - 6) High level overview of divisions of the court and judicial branch.
 - 7) More attention to aspects of court procedure that are commonly covered:
 - a) Arraignment
 - b) Sentencing

- c) Etc.
- 8) Judicial ethical considerations and rules that must be followed and why.
- 9) Contact information at the court and other important practical information:
 - a) Names and phone numbers to get information
 - b) How to negotiate the Web site
- 10) Pet Peeves: Media/Court exchange.
- 11) Do's and Don'ts: A Checklist.
- 12) Resources and Links to Information:
 - a) More attention to aspects of court procedure that are commonly covered

Appendix B: Regional Media Access Plan

Purpose

The Regional Media Access Plan would be called into action whenever a court, attorney, or media representative believes the plan could assist in recommending ways to resolve conflicts that emerge during media coverage of a court proceeding. The goal of the plan is to create an effective mechanism to assist the court in resolving disagreements quickly and amicably and to promote better working relationships between the bench, bar, and media. The proposed access teams are not deciding bodies; their purpose is to act as a resource to court's that request assistance. A trial judge should consult with his/her presiding judge prior to consulting an external judge to avoid inappropriate ex parte communications.

Types of Conflict (Examples)

- Restrictions on media coverage of a particular proceeding
- Obscure local procedures regarding access to court documents or administrative information
- A judge neglects to publicly articulate the reasons for rulings affecting the media

Regional Media Access Teams and Structure

Due to the size of the state, three Media Access Teams would be assembled according to the three actively operational trial court regions supported by the regional offices of the Administrative Office of the Courts as follows:

Bay Area/Northern Coastal Region (16 counties)

<u>County</u>	<u>Media Market</u>
Alameda	San Francisco
Contra Costa	San Francisco
Del Norte	Eureka
Humboldt	Eureka
Lake	San Francisco
Marin	San Francisco
Mendocino	San Francisco
Monterey	Monterey
Napa	San Francisco
San Benito	Monterey
San Francisco	San Francisco
Santa Mateo	San Francisco
Santa Clara	San Francisco
Santa Cruz	San Francisco
Solano	San Francisco
Sonoma	San Francisco

Northern/Central Region (31 counties)

<u>County</u>	<u>Media Market</u>
Alpine	Reno

Amador	Sacramento
Butte	Chico
Calaveras	Sacramento
Colusa	Sacramento
El Dorado	Sacramento
Fresno	Fresno
Glenn	Chico
Kings	Fresno
Lassen	Chico
Madera	Fresno
Mariposa	Fresno
Merced	Fresno
Modoc	Medford
Mono	Reno
Nevada	Sacramento
Placer	Sacramento
Plumas	Sacramento
Sacramento	Sacramento
San Joaquin	Sacramento
Shasta	Chico
Sierra	Sacramento
Siskiyou	Medford
Stanislaus	Sacramento
Sutter	Sacramento
Tehama	Chico
Trinity	Chico
Tulare	Fresno
Tuolumne	Sacramento
Yolo	Sacramento
Yuba	Sacramento

Southern Region (11 counties)

<u>County</u>	<u>Media Market</u>
Imperial	El Centro & Yuma
Inyo	Los Angeles
Kern	Bakersfield
Los Angeles	Los Angeles
Orange	Los Angeles
Riverside	Los Angeles & Palm Springs
San Bernardino	Los Angeles
San Diego	San Diego
San Luis Obispo	Santa Barbara
Santa Barbara	Santa Barbara
Ventura	Los Angeles

Composition of Regional Media Access Teams

Each Access Team should be made up of members of the judicial branch, bar, media, and AOC staff with experience in high-profile cases and media access issues. The judicial member of the team would serve as lead. Suggested team members for each of the regions include:

- Judge from a trial court within the district with experience in high-profile trials and media access issues – The presiding judges within each of the Access Team’s regions would nominate the judge who will serve as lead for their region’s Access Team.
- Court executive officer or designee – The court executive officers within each of the Access Team’s regions would have responsibility for nominating the court executive officer (or designee) who would serve on their regional Access Team.
- Member of the media (one or more) – The presiding judges and court executive officers within the Access Team’s regions would identify the national and local media entities and ask these entities to select their representative(s). If the media entities do not select their representative(s), the presiding judges and court executives will extend invitations to members of the media with whom they have experience or familiarity.
- Member of the State Bar practicing in the region (one) – The presiding judges and court executive officers within the Access Team’s regions would identify the local bar groups and ask these entities to select one representative. If the bar groups do not select a representative, the presiding judges and court executives will extend invitations to attorneys with whom they have experience or familiarity. The selected attorney must be knowledgeable of First Amendment and media access issues.
- Local court public information officer or other court staff with equivalent experience (if any).
- AOC Regional Administrative Director.
- Staff from the AOC’s Office of Communications.

Program Oversight

General program direction would be provided by both the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee.

Call to Action

Three types of conflict resolution exist:

1. *Proactive* – When made aware of a possible access issue in a court without a public information officer, staff from the AOC’s Office of Communications would contact the court’s presiding judge or executive officer and offer to share experience gained in assisting other courts in similar situations.
2. *Easily Solvable* – For easily solvable situations, the trial judge could continue to enlist the assistance of the court’s public information officer, discuss the issue with court administration, consult another judge for advice based on his or her experience, and/or contact the AOC’s Office of Communications.
3. *Complex* – Members of the news media with concerns about access on a complex or urgent matter could contact the Access Team for guidance (most

likely the media member of the team). Any court officer or member of the bar could also contact the Access Team to discuss access issues. Additionally, the Access Team's judicial member could contact the judge who is directly involved with the access issue or presiding over the high-profile case. (Note: Whether a judicial member from the Access Team could contact another judicial officer about a particular case depends on the approval of an ethics opinion from the Supreme Court's Committee on Judicial Ethics Opinions.) A conference call with team members and court personnel would be scheduled to discuss the issues in an expedited manner and within the bounds of judicial ethics.

High-Profile Cases

A judge, court executive officer, or public information officer preparing for a potentially sensitive, controversial and/or highly visible case can contact the AOC Office of Communications to gain insight on what to expect and how to handle significant press attention.

References – California Rules of Court, Code of Civil Procedure, Penal Code and Forms

References on the following subjects and others should be made readily available online for the bench, press, and bar:

- Access to Court Records
- Cameras in the Court
- Gag Orders
- Juror Issues
- Sealed Records
- Media Coverage and Pooling
- Order Permitting Delegation of Media Coverage