

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

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

December 1, 2010

Minutes

Members Present: Hon. Carlos R. Moreno, Chair; Mr. Ralph Alldredge; 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; Hon. Steven Z. Perren; Mr. John Raess; Ms. Kelli L. Sager; Mr. Peter Scheer; Mr. Jonathan Shapiro (*by phone*); Mr. Stan Statham (*by phone*); and Mr. William C. Vickrey.

Committee Liaison Present: Hon. Steven V. Perren, Associate Justice, Second Appellate District; Chair, Criminal Law Advisory Committee

Members Absent: Ms. Cristina C. Arguedas; Mr. Anthony P. Capozzi; Mr. Steve Cooley; Dr. Félix Gutiérrez; and Mr. Ronald G. Overholt.

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. Kenneth L. Kann, Ms. Leanne Kozak, Mr. Patrick O'Donnell, and Ms. Linda Theuriet.

Item 1 Welcoming Remarks

Committee chair, Justice Carlos R. Moreno, called the meeting to order at 10:15 a.m. and welcomed the committee members. He introduced member Mr. Jonathan Shapiro, who was participating by phone, and explained that Mr. Shapiro is a former United States Attorney and newspaper reporter. He is now a writer and producer. Justice Moreno further stated that Justice Steven Perren has again graciously agreed to facilitate this meeting.

Item 2 Final Report to the Judicial Council

Justice Moreno noted that the invitation to public comment period on the committee's draft report, *A Balancing Act: Accommodating the Needs of the Bench, Bar, and Media in the Pursuit*

of Justice (August 2010), was extended due to the controversy over the recommendations and a request for additional time to comment. He stated that 123 individuals, courts, organizations, and other entities provided comments, which were compiled in a document sent to the committee members. This document is titled “Public Comments on *A Balancing Act: Accommodating the Needs of the Bench, Bar, and Media in the Pursuit of Justice*, Bench-Bar-Media Committee Draft Report (August 2010)” (document dated 11/17/10). Staff also provided the committee with a list of commentators in the document titled “Individuals and Entities Who Commented on *A Balancing Act: Accommodating the Needs of the Bench, Bar, and Media in the Pursuit of Justice*, Bench-Bar-Media Committee Draft Report (August 2010)” (document dated 11/29/10). He further remarked that judges who commented were almost unanimously opposed to all recommendations and that this may be one of the strongest reactions to a proposal judicial branch members have witnessed in years. Many judges commented that the proposed rule changes encroach on the independent exercise of judicial discretion. Other members of the judicial branch, such as court executive officers and Judicial Council advisory committees, were also opposed. The position of the bar was mixed. Justice Moreno noted that the vehemence of the opposition indicated that positions have not changed since the 1996 cameras in the courtroom study.

Justice Moreno stated that the stark difference in the positions of the judicial branch and the media reveals vastly different perceptions. The responses of many judicial branch commentators indicate that the status quo works just fine. In contrast, the media’s perception is that access is consistently denied without explanation. The comments by the media expressed strong support for the committee’s recommendations. This divergence in comments underscores the need for the bench, bar, and media to continue to work on access to court proceedings and address all perspectives.

Justice Moreno presented various courses of action that the committee could consider:

- Propose all or some recommendations in their current form to the Judicial Council;
- Propose all or some recommendations with modifications to the council;
- Withdraw all or some recommendations. (If all recommendations were withdrawn, the council would be asked to only receive a final report and take no further action.); or
- Request that the incoming Chief Justice extend the term of the committee to consider ways to resolve conflicting views expressed in the public comments.

Justice Moreno asked Justice Steven Perren to facilitate the committee’s discussion of the above courses of action and of their general reactions to the public’s comments.

Justice Perren opened the discussion by stating that in his review of the comments, judges suggested that the recommendations were invalid because they were based on anecdotal information, rather than on research, data, or any empirical evidence. He also noted numerous remarks indicating fear and suspicion of centralization through the Judicial Council and/or AOC.

He asked the committee members to share their views and consider how they would like to proceed in light of the comments.

Members noted that although all of the recommendations were subject to criticism by judges, the recommendations concerning cameras in the court, gag orders, and sealing orders received the greatest attention and the strongest opposition from this sector. The majority of the members agreed that little would be gained by proceeding with some of the recommendations in their current form and that it would be better to attempt to reconcile the differing views on access issues. Because it appeared that the vehement opposition by some judges to Recommendation 1 appeared to taint all of the other recommendations, members were reluctant to withdraw all of the recommendations. Instead, they agreed that the committee should discuss each recommendation in light of the public's comments to determine how to proceed with each recommendation.

Justice Moreno stated that some of the comments revealed confusion regarding the council's policy-making and rule-making processes as some commentators thought that the recommendations had already been submitted to the council for a vote. In fact, many of these commentators contacted council members directly with their comments. Mr. William Vickrey, Administrative Director of the Courts, was asked to clarify the council's processes for developing policy and rules of court. He stated that the committee's draft report and its recommendations are considered preliminary. The committee's final report should reflect responses to the comments and final recommendations based on the committee's consideration of the comments received. The committee chair and staff usually present final reports to the council. Typically staff outlines alternatives to the recommendations in the final report. If the council approves the final recommendations, the Administrative Director of the Courts would refer any proposals regarding the rules of court to the appropriate council committees for further consideration and input (e.g., Rules and Projects Committee, Criminal Law Advisory Committee). If the council has questions regarding the final report, it may decide to refer the report back to this committee for further work. He stated that we need to better educate the judicial branch on the processes for developing policy and amending or creating rules of court. He conveyed that it appears the conversation regarding access issues needs to continue.

Item 3 Comments on the Executive Summary and Committee Section

Members discussed those comments that said the committee was comprised predominantly of members from the media and should have included more superior court judges, and representation from the criminal defense bar, victims' rights groups, and law enforcement. Justices on the committee noted that they each have many years of experience as trial court judges and that experience informed their deliberations as committee members over the last two years. Members discussed committee composition and the fact that a few appointed members were ultimately unable to participate in discussions and the development of recommendations due to scheduling conflicts. The committee agreed that if a dialogue is to continue and the committee's term is extended, the composition of the committee should be expanded to include

other voices. A media member noted that although commentators felt that the media representation on the committee was too large, the committee actually only has one member that represents the entire electronic journalism field. It was also recommended that this section of the report be revised to set forth the broad professional experience of the current committee members and to convey that many possess professional expertise in several areas. For example, some members have backgrounds as both attorneys and journalists, and therefore contribute input from both media and bar perspectives. The committee agreed that the final report should also contain an appendix with the professional biographies of the members.

Commentators also contended that the issues and problems stated in the report were merely anecdotal. They also commented that the recommendations were not supported by any research or data. A member noted that the report was necessarily vague at times because members were told that ethical concerns prevent judges on the committee from discussing active or pending cases. Members commented that it was unfortunate that the committee did not discuss the results of two previous reports on cameras in the court, *Report from the Task Force on Photographing, Recording, and Broadcasting in the Courtroom* (1996) and *Cameras in the Courtroom, Report on Rule 980* by the Administrative Office of the Courts, Research and Planning Unit (2000). If the committee's term is extended, these reports will be reviewed and discussed by the committee.

The members voted on the following motions:

1. Public Comments Regarding Composition of Committee:
In the committee's final report, respond to comments regarding membership composition and clarify that some members with the above-mentioned professional expertise were appointed but were unable to attend many meetings and thereby contribute their viewpoint.
2. Committee's Term and Membership:
In light of the comments submitted on the BBMC draft recommendations, the committee asked Justice Moreno to request an extension of the committee's term for two years to continue the dialogue among the three stakeholders, and to request the addition of new members to represent various constituencies, including the bench.
3. Research:
If the committee's term is extended, it will gather research and empirical data and continue to discuss such issues as the use of cameras and electronic recording devices in the courtroom.

ACTION: The committee unanimously approved the above motions.
--

Item 4 Access to Court Proceedings: Comments on Recommendations 1 – 3 and the Declaration

Recommendation 1

Committee members remarked that Recommendation 1 appeared to be the most controversial proposal and the lightning rod behind most of the opposition expressed in the comments. The members discussed the stark divergence between the comments from judges and the media.

Many comments from judges suggested that judges are exercising their discretion appropriately and rule 1.150 does not need to be amended. Judges also commented that amending the rule to set forth an explicit presumption that cameras and other recording devices are allowed in the courtroom constitutes an encroachment on the independent exercise of judicial discretion. Commentators from the branch also stated that cameras will have a detrimental impact upon the conduct of proceedings in trial courts and deprive litigants of their right to a fair trial.

Conversely, comments from the media, some sectors of the bar, and first amendment advocates conveyed strong support for this recommendation. They remarked that the key to public respect of the judicial branch is to provide more openness to the judicial process. They also noted that having judges state their findings on media access increases transparency and provides the public, including the media, with the ability to attempt to address the reasons for denial and resolve the judge's concerns.

After discussing these comments in-depth, the committee members addressed the possible courses of action posed to them by Justice Moreno at the beginning of the meeting. Members noted that the issue of cameras in the courtroom was a critical issue for the branch that would only grow in importance as media technologies continue to become more advanced and reporting by less traditional journalists (e.g., bloggers) increases. Members concluded that the issue of cameras in the courtroom requires a continued dialogue among the branch, attorneys, and journalists.

A judicial member suggested that a pilot project be developed to determine if the courts and the media can find ways to allow cameras in the courts without infringing on the rights of litigants or jeopardizing the integrity of court proceedings. A pilot project could provide empirical evidence regarding the impact of cameras on proceedings, illustrate how compromises can be reached, and offer suggested practices or policies. The chair noted that the federal courts are conducting a three-year pilot study of cameras in the courtroom and that this could serve as a model for a pilot project in California. A pilot project would also address commentators' concerns that the issues raised in the draft report were only supported by anecdotal information. Some members suggested that the pilot project not only invite judges in support of cameras in the court to participate, but also judges who appear opposed to cameras in their courtroom so that they can see whether their concerns are reinforced or resolved by the pilot project's findings. Including appellate courts in the pilot study was also suggested, but the media members conveyed that the media is usually more interested in access to superior court proceedings. It was agreed that a

pilot project shows the most promise in addressing the cameras in the court issue and controversy.

Members also discussed the provisions in Recommendation 1 that would have required judges to make specific findings to prohibit or limit the use of cameras and other recording devices and to state these findings on a revised form MC-510. Members representing the media conveyed that knowing the reasons for denial remains critical. Judicial members remarked that requiring judges to state their findings will not necessarily result in more cameras in the courts as judges who wish to routinely prohibit cameras could simply provide pro forma explanations. One member suggested that if judges are to allow more cameras in the court, it will be because they have greater confidence that the media will not infringe on certain rights or jeopardize the integrity of court proceedings. The findings of the above-mentioned pilot project could provide results that increase judicial confidence in how the media will conduct itself in court proceedings and result in more approvals of cameras in the courtrooms.

In addition to conducting a pilot project, members agreed that additional research was needed on this issue and that such research could include holding forums, researching law and trends in other states and court systems, and addressing new technologies.

The committee concluded that at this juncture, it would not proceed to propose Recommendation 1 as previously presented in the draft report. Instead, assuming the incoming Chief Justice extends the term of the committee, the committee will (1) consider conducting a pilot project to gather additional data, (2) review other research on this issue, (3) and then determine what recommendations, if any, it will propose on this subject.

The committee also agreed that commentary should be added to rule 1.150 that refers to examples of good cause for the public filing form MC-500 in less than five court days before the portion of the proceeding to be covered. (See rule 1.150(e)(1).) The committee also recommends that the commentary to rule 1.150 discuss the benefit of stating findings whenever requests for cameras are denied or permitted. (See rule 1.150(e)(4).)

The committee voted to approve the following revised version of Recommendation 1:

Revised Recommendation 1: Use of Cameras and Other Recording Devices in the Courtroom

Based on concerns raised in the comments to the draft recommendations, the committee no longer recommends amending rule 1.150 at this time.

Add commentary to rule 1.150 that discusses (1) examples of good cause for the public filing form MC-500 in less than five court days before the portion of the proceeding to be covered and (2) case law that conveys the benefit of stating findings whenever requests for cameras are denied or permitted.

Conduct further research on this issue, which can include establishing a pilot project, conducting forums, researching law and trends in other states and courts, and addressing new

reporting technologies. At this time, do not proceed with recommending that the presumption of rule 1.150 be changed.

ACTION: The committee unanimously approved the above revised version of Recommendation 1.

Recommendation 2

The members discussed the recommendation regarding gag orders and the comments thereto. Specifically, they discussed whether to proceed with the draft recommendation as worded in the draft report or to delete the notice requirements. The judicial members of the committee echoed some of the comments by conveying that the notice requirements could be burdensome for courts already experiencing reduced staff and greater workloads. Members representing the media reiterated that reporters are often not made aware of gag orders before they are issued and have difficulties challenging those that they wish to oppose.

The committee agreed that because federal law and local court rules both bear on the subject of gag orders, California law is not settled in this area.

After discussing the judicial opposition to the proposed notice requirements and the media's need to be provided with some form of notice, the committee concluded that the draft recommendation's language regarding notice (previous subsections C and D) should be replaced with language stating that a written gag order that serves as a public record should be required. A written public order would provide the public with adequate notice.

The committee voted to approve the following revised version of Recommendation 2:

Revised Recommendation 2: Gag Orders

Based on concerns raised in the comments on the draft recommendations, the committee has dropped its proposal that the rule on gag orders should require public notice of all such orders.

The committee recommends considering the adoption of 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 would:

- A. Require specific findings of a legitimate competing interest that overrides the public's right of access and justifies some form of gag order;
- B. Limit 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. Require a written order that serves as a public record specifying the terms of the order;
- D. Provide for a simple form that will facilitate challenges to gag orders; and
- E. Encourage judicial education regarding the proper use of gag orders.

ACTION: The committee unanimously approved the above revised version of Recommendation 2.

Recommendation 3

The committee discussed whether to proceed with the draft recommendation as worded in the draft report or to delete the notice requirement (formerly subsection A) given the opposition conveyed by some judicial commentators. The committee concluded that the resolution reached for Recommendation 2 would apply equally well for this recommendation. The committee agreed that the notice language should be replaced with language stating that a written sealing order that serves as a public record should be required so that the public is given adequate notice.

Because of the opposition to the language regarding the award of attorney’s fees (former subsection C) and the difficulty of obtaining statutory changes, the committee agreed to delete the language regarding the award of attorney’s fees.

The committee voted to approve the following revised version of Recommendation 3:

Revised Recommendation 3: Orders Sealing Records

Based on the concerns raised in the comments on the draft recommendations, the committee has dropped its proposal that the sealed records rule should be amended to require public notice of all such orders.

The committee recommends:

- A. Amending rule 2.551(e)(2) to provide that there must be a public record of every application or motion that is filed to seal a record;
- B. Providing a simple form that will facilitate challenges to orders sealing records; and
- C. Encouraging 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.

ACTION: The committee unanimously approved the above revised version of Recommendation 3.

Declaration

The following declaration was presented in the committee’s draft report:

Declaration: Reducing the Cost of Trial Transcripts for the Media

The Bench-Bar-Media Committee 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 and/or California statute, they should make an appropriate joint recommendation to the judicial branch and/or the Legislature.

Due to time constraints, the committee did not discuss this declaration.

Item 5 Enhanced Education and Training: Comments on Recommendations 4 – 7

Recommendation 4

The committee discussed the public’s comments regarding Recommendation 4. Some committee members expressed surprise at the opposition from the bench to voluntary continuing judicial education. A few members emphasized that 1) these recommendations came from the judicial members of the committee and 2) similar education recommendations were proposed by the Judicial Council’s Commission for Impartial Courts in its final report and it received no opposition from the general public or the judicial branch.¹ The committee emphasized that the programs would be voluntary rather than mandatory and were meant to be presented in varied formats so that they could be done in the most cost-effective ways possible (e.g., web conferencing, internet classes, and online resources). The media representatives of the committee suggested that the media did not provide comments in support of this recommendation because it viewed the recommendation as non-controversial.

Both judicial and media members of the committee suggested that education and training could be included as a component or module of existing judicial training sessions. Members also stated that in-person training was the most effective method and humanizes the courts and media. Others added that remote participation via online courses and video training were cost-effective alternatives if in-person training is not feasible.

A judicial member added that presiding judges are currently required to 1) “[m]eet with or designate a judge or judges to meet with any committee of the bench, bar, news media, or community to review problems and to promote understanding of the administration of justice, when appropriate;” and 2) “[s]upport and encourage the judges to actively engage in community outreach to increase public understanding of and involvement with the justice system and to obtain appropriate community input regarding the administration of justice...” (Cal. Rules of Court, rule 10.603(c)(8)(B) and (C).) The committee conveyed its support for local efforts to improve bench-bar-media communications and encourages their practice.

Members requested that the recommendation be amended to emphasize that the educational programs should only be done to the extent fiscally feasible.

¹ Commission recommendation 41 states “Judges and court administrators should be better trained on how to interact with the media, and training for the media in reporting on legal issues should be supported and facilitated.”

A member proposed that a survey of the superior courts be conducted to determine which have active bench-bar-media committees and that courts be encouraged to establish such committees in accordance with the spirit of rule 10.603(c)(8)(B) and (C).

The committee then voted on (1) continuing to propose Recommendation 4 to the Judicial Council, (2) incorporating the above committee discussion in the final report, (3) modifying the recommendation to emphasize that the educational programs should only be done to the extent fiscally feasible, and (4) proposing that a survey of the superior courts be conducted to determine which have active bench-bar-media committees.

Action: The committee unanimously approved (1) continuing to propose Recommendation 4 to the Judicial Council, (2) incorporating the above committee discussion in the final report, (3) modifying the recommendation to emphasize that the educational programs should only be done to the extent fiscally feasible, and (4) (if the committee's term is extended) proposing that a survey of the superior courts be conducted to determine which have active bench-bar-media committees. (See following revised recommendation.)

The committee unanimously approved the following revised version of Recommendation 4:

Revised Recommendation 4: Educational Content and Programs

The committee notes that that presiding judges are currently required to meet with or designate a judge or judges to meet with any committee of the bench, bar, news media, or community to review problems and promote understanding of the administration of justice as appropriate. (Cal. Rules of court, rule 10.603(c)(8)(B).) The committee supports these local efforts to improve bench-bar communications and encourages their use.

The committee supports the creation of educational content and programs to enhance relationships and cross-communication among the bench, bar, media, court staff, and public. To that end, the committee recommends the following be supported in the most cost-effective manner:

- A. The content and programs should be designed for trial court judges and appellate court justices, and staff, as well as for the bar and media;
- B. To the extent fiscally possible, the Judicial Council should encourage local or regional superior court academies and provide the superior courts with resources for their development;
- C. The content and programs should provide guidance on how to create and maintain local superior court bench-bar-media committees; and
- D. To the extent fiscally possible, the AOC should create and maintain an online repository of resources that the courts can use to strengthen their educational programs regarding media relations and media access.

Recommendation 5

The members discussed the comments regarding this recommendation and noted that this proposal had been supported by both judicial officer and media members. It was also noted that this recommendation is nearly identical to and aligns with Recommendation 39 of the Final Report by the Commission for Impartial Courts.² Members concluded that the committee’s final report should note this point and convey that the Commission’s Recommendation 39 received no opposition from the public.

ACTION: The committee unanimously agreed to continue to propose this recommendation to the Judicial Council and to modify the recommendation to include reference to litigants needing clear summaries of court decisions. (See the following revised version of Recommendation 5.)

The committee unanimously approved the following revised version of Recommendation 5:

Revised Recommendation 5: Judicial Officer Training on Clear Presentation of Statements

The committee recommends developing 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 litigants, the media, and the public. This training should address (1) when to prepare a statement and (2) how to prepare a statement.

Recommendation 6

The members noted that some commentators suggested that the superior courts have the ability to link from their websites to a master legal glossary on the California Courts website. Staff noted that the California Courts website already contains a comprehensive legal glossary for the media and public. (See <http://www.courtinfo.ca.gov/selfhelp/glossary.htm>.) The committee concluded that the courts should instead be encouraged to place a website link from their court website to the legal glossary currently on the California Courts website if the court website has no such resource. Doing so would better ensure that the public has easy access to this type of information. The committee voted to approve the following revised version of Recommendation 6:

Revised Recommendation 6: Explanation of Legal Terminology

For the benefit of the media and broad public, the committee recommends that local court websites provide a link to the existing legal glossary provided on the California Courts website.

² Commission recommendation 39 states “[t]raining should be developed for judges and justices on how to present clearly the meaning or substance of court decisions in a way that can be easily understood by litigants, their attorneys, and the public.” Judicial Council of Cal., Commission for Impartial Courts, *Final Report: Recommendations for Safeguarding Judicial Quality, Impartiality, and Accountability in California* (December 2009), www.courtinfo.ca.gov/jc/tflists/commimpart.htm.

ACTION: The committee unanimously approved the above revised version of Recommendation 6.

Recommendation 7

The committee briefly discussed this recommendation and concluded that it is good business practice to post media-related training materials to Serranus. Doing so will provide valuable information at a low cost. The committee voted to approve the following revised version of Recommendation 7:

Revised Recommendation 7: Additional Online Training Materials for Court Staff and Judges

The committee recommends posting media-related training materials for the courts on a secure internal online website, such as Serranus.

Action: The committee unanimously approved the above revised version of Recommendation 7.

Item 6 Conflict Resolution Among the Bench, Bar, and Media: Comments on Recommendations 8 – 9

Recommendation 8

The committee noted that most commentators opposed this recommendation. Committee members representing the judicial branch emphasized that small and medium size courts could significantly benefit from a regional plan. Committee members representing the media reiterated their support of this recommendation and the need to enhance the manner in which conflicts are addressed. The members also agreed that additional education throughout the branch is needed as to the purpose and benefits of a regional media plan.

A member proposed that the final report clarify the intent of the proposed plan and the parameters of exparte communications by judicial officers. The member also recommended that the final report clarify that the assistance of the regional media access teams would only be provided at the request of a court and at no cost to the courts. The committee voted to approve the following revised version of Recommendation 8:

Revised Recommendation 8: Regional Media Access Plan

- A. Implement a Regional Media Access Plan to assist the courts when requested in addressing conflicts among the bench, bar, and media regarding access to the judicial process.
- B. If the committee’s term is extended, it should 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 the Regional Media Access Plan. Specifically, the working group should 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.

Action: The committee unanimously approved the above revised version of Recommendation 8.

Recommendation 9

The committee discussed the following recommendation that was presented in the committee's draft report:

Recommendation 9: Creation of Regional Public Information Officer (PIO) Positions

Direct the Administrative Director of the Courts to create and fund three public information officer positions, with one position assigned to each of the AOC's three regional offices, when funds are available. The primary responsibilities of the three recommended regional PIOs would include assisting local 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.

The committee discussed the opposition to this recommendation by commentators in the judicial branch in contrast to the support of the recommendation by the media commentators. Judicial branch commentators stated that the creation of new PIO positions would constitute a waste of money and create a new layer of AOC bureaucracy. A judicial member of the committee stated that he has made similar proposals over the years to provide the superior courts with the assistance of PIOs. He noted that, despite many commentators' perception that this was a media or AOC proposal, he had again suggested creation of these services for the superior courts during the committee's deliberations and that this suggestion was the genesis of the above recommendation.

This judicial member noted that most, if not all, of the opposition to this recommendation came from judges representing large courts or attorneys practicing in the larger courts. He noted that the majority of medium and small size courts do not have a full or part-time PIO or other staff with the necessary expertise. He emphasized that many of these courts could benefit from a regional PIO.

Rather than withdrawing this recommendation because of some commentators' opposition, the judicial member recommended it be retained in the final report and that the final report emphasize the following:

1. Large superior courts have a PIO and often additional supporting staff, but medium and small courts usually do not and could benefit from a regional PIO.

2. Approximately 46 superior courts do not have any staff persons designated to perform PIO responsibilities. While approximately 6 courts do have a full-time PIO, another 10 courts assign other staff to perform PIO duties when the need arises. These 10 staff persons have other major responsibilities and perform PIO duties only as needed. Courts that do not have a full or part-time PIO sometimes contact the AOC's Office of Communications for assistance.
3. The assistance of the regional PIOs would only be provided upon the request of a superior court.
4. The assistance of the regional PIOs would be free of cost to the courts.
5. The regional PIOs would work in conjunction with the courts.
6. A survey of the superior courts. If the committee's term is extended, it should conduct a survey of the superior courts to determine the duties of their full or part-time PIOs, the PIOs' experience with high-profile cases and interactions with the media, and whether the courts would like the assistance of a regional PIO when the state's fiscal crisis has subsided.
7. The regional PIO positions cannot be funded in the near future because of the ongoing fiscal crisis.

Action: The committee unanimously approved the above recommendation (to continue to propose Recommendation 9 to the Judicial Council and to modify the final report as described above).

Item 7 Implementation Plan: Comments on Recommendations 10 – 11

Recommendation 10

The following recommendation was presented in the committee's draft report:

Recommendation 10: Implementation Working Group

Following the Judicial Council's receipt of the final report, direct the Administrative Director of the Courts to appoint a Bench-Bar-Media Implementation Working Group to assist AOC staff with developing a plan to implement the committee recommendations and to assist AOC staff with implementation.

The committee did not discuss this recommendation as it agreed to seek an extension of the committee's term.

Recommendation 11

The following recommendation was presented in the committee's draft report:

Recommendation 11: Implementation Plan

Following the Judicial Council's receipt of the final report, direct the Administrative Director of the Courts to provide for consideration at a designated 2011 Judicial Council business meeting an implementation plan. This plan would address:

- The cost of implementing each recommendation in terms of estimated expenses and court and AOC staff resources.
- Whether any of the recommendations will necessitate referral to internal and/or external entities (e.g., other council advisory committees, other AOC divisions).
- Whether implementation of any of the recommendations will require any legislative action.
- A timeline for implementation of each recommendation.
- Prioritization of the recommendations for implementation.

The committee did not discuss this recommendation as it agreed to seek an extension of the committee's term.

Item 8 Next Steps

Mr. Peter Allen stated that Justice Moreno will submit a memorandum to the incoming Chief Justice to request an extension of the committee's term for an additional two years, propose that the committee conduct further research regarding cameras in the court (which can include a pilot project), and request that additional members be added to the committee. If the incoming Chief Justice approves the continuation of the committee, staff will begin to identify the additional research and data that may be helpful to the committee members. Additionally, if the committee's term is extended, staff will draft and the committee will approve an interim report to the Judicial Council in 2011. If the committee's term is not extended, staff will prepare a final report to be presented to the council in 2011 and the committee will disband.

Item 9 Acknowledgement of Committee Members' Service

Justice Moreno thanked the committee members for their service over the last two years and also expressed his gratitude for their willingness to continue serving in the future if the new Chief Justice approves an extension of the committee's term.

Item 10 Adjournment

Justice Moreno thanked the members for their participation and Justice Perren for facilitating the committee's discussion. He adjourned the meeting at 4:00 p.m.