



JUDICIAL COUNCIL
OF CALIFORNIA

TECHNOLOGY COMMITTEE

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JUDICIAL COUNCIL TECHNOLOGY COMMITTEE

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))
THIS MEETING WILL BE CONDUCTED BY TELECONFERENCE
THIS MEETING WILL BE RECORDED

Date: March 8, 2021
Time: 12:00 noon - 1:00 p.m.
Connection: <https://jcc.granicus.com/player/event/1134?&redirect=true>

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve minutes of the February 8, 2020 meeting.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), public comments about any agenda item must be submitted by March 5, 2021, 12:00 noon. Written comments should be e-mailed to jctc@jud.ca.gov. Only comments received by March 5, 2021, 12:00 noon will be provided to advisory body members prior to the start of the meeting.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-8)

Item 1

Chair Report

Provide an update on activities of or news from the Judicial Council, advisory bodies, courts, and/or other justice partners.

Presenter: Hon. Kyle S. Brodie, Chair, Judicial Council Technology Committee

Item 2

Information Technology Advisory Committee (ITAC): Update and Report

An update and report on ITAC will be provided; this will include the activities of the workstreams.

Presenter: Hon. Sheila F. Hanson, Chair, Information Technology Advisory Committee

Item 3

Jury Management System Grant Program for Fiscal Year 2021-2022 (Action Requested)

The committee will consider the recommended allocations for the Jury Management System Grant program for fiscal year 2021 – 2022. The budget for the Jury System Grant Program is funded by royalties from selling jury instructions which are deposited in the Trial Court Improvement and Modernization Fund. These funds can only be used for jury-related projects. According to the objectives of the program, the prioritization categories, other considerations, and the funding metrics, funding allocations have been proposed.

Presenter: Mr. Juan Ambriz, Senior Business Systems Analyst, Judicial Council Information Technology

Item 4

E-Filing Workstream: Revise 2021 ITAC Annual Agenda (Action Requested)

The committee will consider a proposal to form a new workstream and recommend that the ITAC Annual Agenda be revised accordingly.

Presenter: Ms. Heather L. Pettit, Chief Information Officer / Director, Information Technology

Item 5

Technology Budget Change Proposals (BCPs) for Fiscal Year 2022-2023 (Action Requested)

The committee will review and consider whether to approve concepts for BCP funding beginning fiscal year 2022 – 2023. These concepts have technology components but did not originate from Information Technology and thus are not ranked. The approved BCP concepts will be submitted to the Judicial Branch Budget Committee.

Presenter: Ms. Heather L. Pettit, Chief Information Officer / Director, Information Technology

Item 6

Court Technology Modernization Funding: Update and Report

Provide a status update on activities related to the direct allocations to the trial courts approved by the committee, as well as the branchwide initiatives.

Presenter: Ms. Heather L. Pettit, Chief Information Officer / Director, Information Technology

Item 7

ITAC Rules & Policy Subcommittee: Proposed Amendments to the Electronic Filing and Service Rules to Reference Penal Code Section 690.5 (Action Requested)

Review and approve proposal for circulation for public comment.

Presenters: Hon. Julie R. Culver, Chair, ITAC's Rules & Policy Subcommittee; and Ms. Andrea Jaramillo, Attorney, Legal Services

Item 8

ITAC Rules & Policy Subcommittee: Legislative and Rule Proposals Related to Exhibits and Evidence in Electronic Format (Action Requested)

Review and approve proposals for circulation for public comment.

Presenters: Hon. Julie R. Culver, Chair, ITAC's Rules & Policy Subcommittee; and Ms. Andrea Jaramillo, Attorney, Legal Services

A D J O U R N M E N T

Adjourn



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JUDICIAL COUNCIL TECHNOLOGY COMMITTEE

MINUTES OF OPEN MEETING

February 8, 2021

12:00 noon – 1:00 p.m.

videoconference

Advisory Body Members Present: Hon. Kyle S. Brodie, Chair; Hon. Todd C. Bottke, Vice-Chair; Hon. Kevin C. Brazile; Hon. Carol Corrigan; Hon. Jonathan B. Conklin; Hon. Glenn Mondo; Ms. Rachel W. Hill; and Mr. Shawn Landry

Liaison Members Present: Hon. Sheila F. Hanson

Others Present: Ms. Heather L. Pettit; Mr. Mark Dusman; Mr. Andrae Randolph; Ms. Jamel Jones; Ms. Jessica Craven; Ms. Aiswarya Ramamoorthy; Mr. Mark Neuburger; Mr. Douglas Denton; Ms. Lisa Chavez; Ms. Danielle McCurry; Mr. Hermawan Trinh; Mr. Doug Kauffroath; Mr. Bobby Brow; and Mr. Jason Lopez

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order, took roll call, and advised that no public comments were received.

Approval of Minutes

The committee reviewed and approved the minutes of the January 11, 2021 open meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 1

Chair Report

Update: Hon. Kyle S. Brodie, Chair, welcomed and thanked everyone for attending. Judge Brodie discussed activities since the last meeting. Judge Brodie also reviewed the agenda topics for the meeting.

Item 2

Update/Report on Information Technology Advisory Committee (ITAC)

Update: Hon. Sheila F. Hanson, Chair of ITAC, deferred this item to a future meeting due to time constraints.

Action: Due to time constraints, this item was deferred to a future meeting.

Item 3

Tactical Plan for Technology 2021-2022

Update: Judge Hanson reviewed the Tactical Plan for Technology 2021-2022 with the committee. All existing initiatives were continued in the revised plan, along with one new initiative (the Digital Court Ecosystem) was introduced.

Action: The committee received the report, asked questions, and then voted unanimously to submit the Plan to the Judicial Council for approval at its March 12, 2021 meeting.

Item 4

Language Access Signage and Technology Program – Contingency Funding

Update: Mr. Douglas Denton presented a report and proposal to allocate FY20-21 contingency funding for approval by the Judicial Council.

Action: The committee received the report, asked questions, discussed work done to date, and then voted unanimously to approve the proposal.

Item 5

Technology Budget Change Proposals (BCPs)

Update: Ms. Heather L. Pettit, Chief Information Officer / Director of Judicial Council Information Technology reviewed the potential technology-related Budget Change Concepts (BCCs) for funding beginning FY20-23.

Action: The committee received the report, asked questions, discussed alternatives, and then voted unanimously to provide the Judicial Branch Budget Committee the following ranking of the BCCs:

1. Judicial Branch Modernization Funding
2. Phoenix System Functional Requirements
3. Judicial Branch Office of Information Security

The Committee also voted to submit the Rural Court Internet Connectivity BCC as a placeholder but deferred ranking contingent upon receiving additional information expected later in the year. Finally, the Committee decided to defer action on technology-related BCCs from other groups until a future meeting.

Item 6

Court Technology Modernization Funding: Update and Report

Update: Due to time constraints, this item was deferred to a future meeting.

Action: Due to time constraints, this item was deferred to a future meeting.

A D J O U R N M E N T

There being no further business, the meeting was adjourned.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

February 26, 2021

Action Requested

Review and approval

To

Hon. Kyle S. Brodie, Chair
Judicial Council Technology Committee

Contact

Deborah Silcox,
Principal Manager
Information Technology
916-532-5216
Deborah.Silcox@jud.ca.gov

From

Heather Pettit, Chief Information Officer
Operations & Programs Division

Juan Ambriz, Sr. Business Systems
Analyst
Information Technology
916-643-7027
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Subject

Jury Management System Grant Program FY
2020-2021
Grant Requests and Proposed Grant
Allocations

Background

The budget for the Jury Management System Grant Program is funded by royalties, generated by published Judicial Council developed jury instructions, which are deposited in the Trial Court Improvement and Modernization Fund. These funds can only be used for jury-related projects. The Judicial Council approved \$665,000 in funding for the Jury System Grant Program in FY 19-20.

The Judicial Council has funded Jury grants since FY 2000-2001. Initially, the fund allocations were designed to help courts migrate from DOS based systems to Windows based systems. With

the advent of the one day one trial program, these grants evolved into helping courts become more efficient in jury management with Interactive Voice Response (IVR)/Interactive Web Response (IWR) systems, Imaging, check writing and a variety of other modules that reduce court costs and improve jurors' experiences.

The FY 2020-2021 jury management system application process began on November 13, 2020 and concluded on January 19, 2021. At the close of the application deadline, the Judicial Council had received jury management system grant requests from 18 trial courts for 26 projects. After an initial review, all 26 of the projects were considered for possible funding as part of the FY 20-21 jury management system grant. To assist with developing a proposed allocation of jury management system grant funding, a prioritization framework was developed using the jury program objectives and other considerations. These objectives and other considerations are discussed in more detail below.

Program Objectives

There were several objectives which served as the underlying foundation when reviewing the jury management system grant requests for funding. These goals included:

- Assist those courts with upgrading their jury management system software/infrastructure to keep the systems on supported platforms;
- Fund as many different courts as possible;
- Fund enhancements and modules that reduce the court's costs; and
- Minimize the court resources needed to provide information to jurors and provide jurors with greater access to information as well as improve the jurors' experience.

Prioritization Categories

Listed below are the categories used to assign a priority to jury projects from which a recommendation for funding could be made. These jury projects were submitted by the trial courts after a solicitation was sent by the Judicial Council Technology Committee Chair to all trial court Presiding Judges and Court Executive Officers.

1. Jury Management System Version Upgrade: Upgrades the jury management software/infrastructure being used by the court to help keep the systems on supported platforms.
2. Interactive Voice Response (IVR)/ Interactive Web Response (IWR) Enhancements/Modules: These project requests for IVR/IWR enhancements offer cost savings to the court by reducing the court resources needed to provide information to potential jurors while also providing potential jurors with a convenient way to obtain jury information.

3. Self-Check-In: This module offers different levels of functionality depending upon the specific jury grant proposal but in general allows jurors to perform some level of self-check in when reporting to the court.
4. Imaging: Automates court staff responses to paper documents and other correspondence, phone calls for postponement, permanent excuses, and qualification/disqualification.
5. Jury Panel Display Monitor System: Provides display monitors to jurors about their status and where to assemble.
6. Peripheral Hardware: Includes items such as scanners, printers, folder/sealer machines used to assist with mailing jury summons. This category also includes audio/video equipment in the courtroom.

Other Considerations

In addition to the prioritization framework identified above, there were other factors considered in determining which projects to fund. They include the following:

1. Ongoing items such as software subscription fees, support and maintenance were removed from the funding requests as ongoing costs are not funded as part of the jury grant program;
2. As part of the review of jury grant requests submitted by the courts, vendor quotations and estimates were reviewed for reasonableness and compliance with the objectives of the jury system grant program. Ultimately, any reimbursement from the jury grant program will only be made for the amount supported by vendor invoices submitted by the court;
3. Limit the amount of allocation for each court to no more than 7.5 percent of the total funding available. The allocation limit is \$50,000 per court.

Proposed Jury Grant Funding Metrics

Using the framework described above, the recommendation is to allocate a total of \$635,535 in jury grant funding which will provide some level of funding to all 18 courts and for 26 jury grant projects. A summary of the funding requests by the program prioritization category is shown below. In addition, a table showing the detail by court is included in the “Staff Recommendation” section of this memo:

Priority #1: JMS Version Upgrade – 12 funded out of 12 requested projects

Priority #2: IVR/IWR– 0 funded out of 0 requested projects

Priority #3: Self Check-In – 2 funded out of 2 requested projects

Priority #4: Imaging – 1 funded out of 1 requested projects

Priority #5: Jury Panel Display System – 1 funded out of 1 requested projects

Priority #6: Peripheral Hardware – 9 funded out of 9 requested projects

Priority #7: Data Analytics Software – 0 funded out of 0 requested project(s)

Priority #8: Hosting Platform Update – 1 funded out of 1 requested project(s)

Recommendation

It is staff’s recommendation to distribute the funds as indicated in the attached table:

#	Court	Description	Requested Allocation	Proposed Allocation	JMS Program Priority Category
1	Butte	WebGen	\$34,275	\$34,275	Priority 1 JMS Upgrade
			\$34,275	\$34,275	
2	El Dorado	Audio Systems	\$66,727	\$50,000	Priority 6 Peripheral Hardware
			\$66,727	\$50,000	
3	Fresno	A/V Systems	\$66,978	\$50,000	Priority 6 Peripheral Hardware
			\$66,978	\$50,000	
4	Lassen	Express Check-in	\$34,636	\$34,636	Priority 3 Self Check-in
			\$34,636	\$34,636	
5	Los Angeles	Program Juror Master List Application	\$125,697	\$50,000	Priority 1 JMS Upgrade
			\$125,697	\$50,000	
6	Mendocino	WebGen	\$24,400	\$24,400	Priority 1 JMS Version Upgrade
			\$24,400	\$24,400	
7	Merced	A/V Systems	\$79,108	\$50,000	Priority 6 Peripheral Hardware
			\$79,108	\$50,000	
8	Mono	WebGen	\$18,158	\$18,158	Priority 1 JMS Upgrade
			\$18,158	\$18,158	
9	Monterey	Modernize/redesign JMS architecture	\$137,515	\$50,000	Priority 1 JMS Upgrade
			\$137,515	\$50,000	
10	Placer	Transition JMS from to AWS GovCloud	\$65,000	\$50,000	Priority 8 Hosting Platform Update
			\$65,000	\$50,000	
11	San Bernardino	Update to the Court's Web Enhance Jury system	\$1,000	\$1,000	Priority 1 JMS Upgrade
			\$1,000	\$1,000	
12	San Francisco	WebGen	\$61,400	\$50,000	Priority 1 JMS Upgrade
			\$61,400	\$50,000	

Jury Management System Grant Program FY 2019-2020

February 26, 2021

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13	San Joaquin	JURY + ADDRESS REPLACEMENT MODULE	\$7,000	\$7,000	Priority 1 JMS Upgrade
		Scanners	\$2,850	\$2,850	Priority 4 Imaging
		Bar code readers	\$615	\$615	Priority 6 Peripheral Hardware
		Laptops	\$2,000	\$2,000	Priority 6 Peripheral Hardware
			\$12,465	\$12,465	
14	Shasta	JuryMinder	\$18,781	\$18,781	Priority 1 JMS Upgrade
			\$18,781	\$18,781	
15	Siskiyou	Upgrade JMS	\$18,150	\$18,150	Priority 1 JMS Upgrade
		Replace self check-in kiosks	\$7,951	\$7,951	Priority 3 Self Check-in
		Hardware-folder/insert machine	\$19,890	\$19,890	Priority 6 Peripheral Hardware
			\$45,990	\$45,991	
16	Solano	A/V Systems	\$99,232	\$50,000	Priority 5 Jury Panel Display Monitor System
			\$99,232	\$50,000	
17	Sutter	Express Check-in	\$7,000	\$7,000	Priority 1 JMS Upgrade
		Jury Workstations	\$4,258	\$4,258	Priority 6 Peripheral Hardware
		Two-way radios	\$2,374	\$2,374	Priority 6 Peripheral Hardware
		Virtual Clerk Presence	\$1,010	\$1,010	Priority 6 Peripheral Hardware
			\$14,642	\$14,642	
18	Tuolumne	Web-based jury services module	\$31,187	\$31,187	Priority 1 JMS Upgrade
			\$31,187	\$31,187	
Total:			\$937,192	\$635,535	

Next Steps

Present the proposed allocations to the Judicial Council Technology Committee for review and approval. Notify courts of the approved allocation and prepare the Intra-Branch Agreements (IBA's) with each court for their jury grant.

New Workstream (Ending 2021)	
Statewide eFiling Program Review / Evaluation	<i>Priority 2</i>
Workstream membership approved: _____	<i>Scope category(ies): Possibilities; Policies</i>
<p><i>Project Summary: Review and evaluate the existing statewide e-filing program. Expand the number of e-filing manager (EFM) solutions in the program and standardize electronic filing fees across the state.</i></p> <p><i>Key Objectives:</i></p> <ul style="list-style-type: none"> (a) Identify core team (sponsor and leads); form group membership; hold kickoff meeting(s). (b) Provide recommendations on expanding current e-filing program solutions to a branchwide approach. (c) Evaluate statewide EFM solutions and identify development opportunities and potential funding sources. (d) Evaluate standardizing e-filing transaction fees across the state. (e) Review e-filing rules and statutes to clarify language and improve consistency across the branch. (f) At the completion of these objectives, present findings and recommendations to, and seek approval from, ITAC, the Technology Committee and, if appropriate, the Judicial Council. Formally sunset the workstream. <p><i>Origin of Project:</i> Tactical Plan for Technology 2021-2022 (pending); branch-identified business need.</p> <p><i>Status/Timeline:</i></p> <p><i>Fiscal Impact:</i></p> <p><input type="checkbox"/> This project may result in an allocation or distribution of funds to the courts. We will coordinate with Budget Services to ensure their review of relevant materials.</p> <p><i>Resources:</i></p> <ul style="list-style-type: none"> • <i>ITAC:</i> Workstream: Sponsor: Snorri Ogata • <i>Judicial Council Staffing:</i> Information Technology, Legal Services • <i>Collaborations:</i> ITAC Rules and Policy Subcommittee 	

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INVITATION TO COMMENT

[ITC prefix as assigned]-__

Title

Rules: Electronic Filing and Service in Criminal Cases

Action Requested

Review and submit comments by May 21, 2021

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259

Proposed Effective Date

January 1, 2022

Proposed by

Information Technology Advisory Committee
Hon. Sheila F. Hanson, Chair

Contact

Andrea L. Jaramillo, 916-263-0991
andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee recommends the Judicial Council amend rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court. The purpose of the proposal is to meet Penal Code section 690.5's requirement that the Judicial Council adopt rules for the electronic filing and service of documents in criminal cases in the trial courts.

Background

In 2017, the Judicial Council sponsored legislation to add section 690.5 to the Penal Code to provide express authority for permissive electronic filing and electronic service by consent in criminal proceedings. Penal Code section 690.5 became law effective January 1, 2018.

The Proposal

The proposal would add references to Penal Code section 690.5 to the electronic filing and electronic service rules of the California Rules of Court to bring criminal cases within the scope of those rules. The proposal is needed to comply with Penal Code section 690.5's requirement that the Judicial Council make rules for the electronic filing and electronic service of documents in criminal cases.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee.
It is circulated for comment purposes only.*

The following amendments are included in the proposal:

- **Rule 2.251(a):** This provision generally authorizes electronic service and states that service may be made electronically under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds a reference to Penal Code section 690.5.
- **Rule 2.251(c)(1)–(2):** These provisions govern electronic service required by local rule or court order. The amendments specify that courts may only require electronic service in civil actions because mandatory electronic filing and electronic service are not applicable in criminal actions under Penal Code section 690.5.
- **Rule 2.251(k):** This provision authorizes a court to serve documents electronically under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds a reference to Penal Code section 690.5.
- **Rule 2.252(a):** This provision generally authorizes electronic filing as provided under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds a reference to Penal Code section 690.5.
- **Rule 2.253(a):** This provision specifically authorizes courts to permit electronic filing by local rule subject to the conditions in Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds a reference to Penal Code section 690.5.
- **Rule 2.255(h):** This is a new provision that prohibits electronic filing service providers (EFSPs) and electronic filing managers (EFMs) from charging service fees when an electronic filer is a prosecutor, an indigent defendant, or counsel for an indigent defendant. These service fees are charged by the service provider and are not filing fees.
- **Rule 2.258:** This rule governs the payment of filing fees. The amendment specifies the rule applies to civil actions as criminal cases do not have filing fees.
- **Rule 2.259(e):** This rule provides for issuance of an electronic summons. The amendment adds new provisions authorizing the court to issue an electronic summons pursuant to Penal Code sections 813, 1390, and 1391. Service of the summons would need to be made as prescribed elsewhere by law.

Alternatives Considered

Because Penal Code section 690.5 requires the Judicial Council to make rules, no alternative to rulemaking was considered. With respect to the particular rules, the Information Technology Advisory Committee (ITAC) considered comments from the Criminal Law Advisory Committee (CLAC) on fees charged by service providers for electronic filing services. CLAC raised concerns that fees would likely bar most public defender and district attorney offices from opting into electronic filing, and would be a hardship for indigent defendants. CLAC recommended no service charges be permitted for filings in criminal actions for prosecutors and all defendants and

their counsel. ITAC considered this, but limited the proposal to a prohibition of service fees for prosecutors, indigent defendants, and counsel for indigent defendants. ITAC seeks specific comments on this issue.

Fiscal and Operational Impacts

Because the proposal only applies to permissive electronic filing and electronic service by consent, the proposal does not impose new costs on the courts or electronic filers. The proposal does not require EFSPs to offer services to electronic filers in criminal cases, does not require courts to adopt rules to permit electronic filing in criminal cases, and does not require prosecutors or defendants and their attorneys to use electronic filing.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- The proposed amendments would limit EFSPs and EFMs to charging for electronic filing services in criminal cases when an electronic filer is a prosecutor, indigent defendant, or counsel for an indigent defendant.
 - For EFSPs and EFMs, would you be willing to offer electronic filing in criminal cases with this limitation?
 - For prosecutors, defense attorneys representing indigent defendants, and those representing the interests of indigent, pro per defendants, would a service provider's fee prevent the use of electronic filing?
 - For defense attorneys representing non-indigent defendants, would a service provider's fee prevent the use of electronic filing?
 - Should there be no service charges for the electronic filing of criminal cases?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rules 2.251, 2.252, 2.253, 2.255, and 2.259, at pages 6–9

2. Link A: Penal Code section 690.5,

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=690.5.&lawCode=PEN

DRAFT

Rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court would be amended, effective January 1, 2022, to read:

1 **Rule 2.251. Electronic service**

2
3 **(a) Authorization for electronic service**

4
5 When a document may be served by mail, express mail, overnight delivery, or fax
6 transmission, the document may be served electronically under Code of Civil
7 Procedure section 1010.6, Penal Code section 690.5, and the rules in this chapter.
8

9 **(b) * * ***

10
11 **(c) Electronic service required by local rule or court order**

12
13 (1) A court may require parties to serve documents electronically in specified
14 civil actions by local rule or court order, as provided in Code of Civil
15 Procedure section 1010.6 and the rules in this chapter.
16

17 (2) A court may require other persons to serve documents electronically in
18 specified civil actions by local rule, as provided in Code of Civil Procedure
19 section 1010.6 and the rules in this chapter.
20

21 (3)–(4) * * *

22
23 **(d)–(j) * * ***

24
25 **(k) Electronic service by or on court**

26
27 (1) The court may electronically serve documents as provided in Code of Civil
28 Procedure section 1010.6, Penal Code section 690.5, and the rules in this
29 chapter.
30

31 (2) A document may be electronically served on a court if the court consents to
32 electronic service or electronic service is otherwise provided for by law or
33 court order. A court indicates that it agrees to accept electronic service by:

34
35 (A) Serving a notice on all parties and other persons in the case that the
36 court accepts electronic service. The notice must include the electronic
37 service address at which the court agrees to accept service; or
38

39 (B) Adopting a local rule stating that the court accepts electronic service.
40 The rule must indicate where to obtain the electronic service address at
41 which the court agrees to accept service.
42
43

Rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court would be amended, effective January 1, 2022, to read:

1 **Advisory Committee Comment**

2
3 **Subdivision (b)(1)(B).** The rule does not prescribe specific language for a provision of a term of
4 service when the filer consents to electronic service, but does require that any such provision be
5 clear. *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-
6 CV) provides an example of language for consenting to electronic service.

7
8 **Subdivision (c).** The subdivision is applicable only to civil actions as defined in rule 1.6. Penal
9 Code section 690.5 excludes mandatory electronic service in criminal cases.

10
11 **Subdivisions (c)–(d).** Court-ordered electronic service is not subject to the provisions in Code of
12 Civil Procedure section 1010.6 requiring that, where mandatory electronic filing and service are
13 established by local rule, the court and the parties must have access to more than one electronic
14 filing service provider.

15
16 **Rule 2.252. General rules on electronic filing of documents**

17
18 **(a) In general**

19
20 A court may provide for electronic filing of documents in actions and proceedings
21 as provided under Code of Civil Procedure section 1010.6, Penal Code section
22 690.5, and the rules in this chapter.

23
24 **(b)–(h) * * ***

25
26 **Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic**
27 **filing by court order**

28
29 **(a) Permissive electronic filing by local rule**

30
31 A court may permit parties by local rule to file documents electronically in any
32 types of cases, subject to the conditions in Code of Civil Procedure section 1010.6,
33 Penal Code section 690.5, and the rules in this chapter.

34
35 **(b)–(c) * * ***

36
37 **Rule 2.255. Contracts with electronic filing service providers and electronic filing**
38 **managers**

39
40 **(a)–(g) * * ***

41

Rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court would be amended, effective January 1, 2022, to read:

1 **(h) Fees for electronic filing services not chargeable in some criminal actions**

2
3 Electronic filing service providers and electronic filing managers may not charge a
4 service fee when an electronic filer files a document in a criminal action when the
5 electronic filer is a prosecutor, an indigent defendant, or counsel for an indigent
6 defendant.

7
8 **Rule 2.258. Payment of filing fees in civil actions**

9
10 **(a) Use of credit cards and other methods**

11
12 A court may permit the use of credit cards, debit cards, electronic fund transfers, or
13 debit accounts for the payment of civil filing fees associated with electronic filing,
14 as provided in Government Code section 6159, rule 10.820, and other applicable
15 law. A court may also authorize other methods of payment.

16
17 **(b) * * ***

18
19 **Rule 2.259. Actions by court on receipt of electronic filing**

20
21 **(a)–(d) * * ***

22
23 **(e) Issuance of electronic summons**

24
25 (1) Court authorized to issue electronic summons

26
27 **(A)** On the electronic filing of a complaint, a petition, or another document
28 that must be served with a summons in a civil action, the court may
29 transmit a summons electronically to the electronic filer in accordance
30 with this subdivision and Code of Civil Procedure section 1010.6.

31
32 **(B)** On the electronic filing of an accusatory pleading against a corporation,
33 the court may transmit a summons electronically to the prosecutor in
34 accordance with this subdivision and Penal Code sections 1390 and
35 1391.

36
37 **(C)** When a summons is issued in lieu of an arrest warrant, the court may
38 transmit the summons electronically to the prosecutor in accordance
39 with this subdivision and Penal Code section 813.

40
41 (2) The electronically transmitted summons must contain an image of the court's
42 seal and the assigned case number.

Rules 2.251, 2.252, 2.253, 2.255, 2.258, and 2.259 of the California Rules of Court would be amended, effective January 1, 2022, to read:

- 1 (3) Personal service of the printed form of a summons transmitted electronically
- 2 to the electronic filer has the same legal effect as personal service of a copy
- 3 of an original summons.
- 4

DRAFT

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT [ITC prefix as assigned]-__

Title

Judicial Council–Sponsored Legislation:
Vendor Storage of Exhibits and Evidence in
Electronic Format

Action Requested

Review and submit comments by May 21,
2021

Proposed Rules, Forms, Standards, or Statutes

Enact Gov. Code, § 69846.1; amend Gov.
Code, § 69846; Code Civ. Proc., § 1952; and
Pen. Code, § 1417

Proposed Effective Date

January 1, 2023

Contact

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Proposed by

Information Technology Advisory
Committee
Hon. Sheila F. Hanson, Chair

Executive Summary and Origin

The Information Technology Advisory Committee recommends the Judicial Council sponsor legislation to authorize courts to use vendors for storage of exhibits and evidence in electronic format. The purpose of the proposal is to facilitate the use of electronic exhibits and electronic evidence in courts. The proposal originates with recommendations from the Information Technology Advisory Committee’s Digital Evidence Workstream.

Background

In 2017, the Information Technology Advisory Committee (ITAC) established the Digital Evidence Workstream to investigate, assess, and report on statutes, rules, business practices, and technical standards related to digital evidence, also known as electronic evidence. During the first phase of the workstream’s activity, the workstream completed a survey of the courts about digital evidence. During the next phase, the workstream established a subgroup to work on identifying statutes and rules that need to change to allow courts to implement and receive electronic evidence, and to identify and create new statutes and rules where appropriate. In November 2020, the workstream presented its recommendations to ITAC. Recommendations included legislation authorizing vendor storage.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee.
It is circulated for comment purposes only.*

The Proposal

The proposal would authorize the clerk of the court to use a vendor for exhibits and evidence in electronic format. As exhibits and evidence increasingly come to courts in an electronic format, the maintenance and storage of such material becomes a challenge both in terms of a court's storage capacity and its technical capabilities. The option to use a vendor for storage is intended to facilitate the use of electronic exhibits and electronic evidence in court proceedings while ensuring courts can maintain control over the exhibits and evidence.

The proposal would add section 69846.1 to the Government Code to authorize the clerk of the court to use a vendor for maintenance and storage of exhibits and evidence in electronic format. The new code section would:

- Authorize, but not require the clerk to use a vendor to store and maintain exhibits and evidence maintained in electronic format;
- Require vendors to adhere to any Judicial Council or local court security standards and policies;
- Limit access to exhibits and evidence to persons authorized by law or court order;
- Allow the vendor to destroy or dispose of exhibits and evidence only as directed by the court; and
- Allow the Judicial Council to adopt rules to facilitate implementation of the code section.

The proposal would also amend existing code sections to provide that a clerk may use a vendor for maintenance and storage subject to the requirements of Government Code section 69846.1. Specifically, the proposal would amend Government Code section 69846, Code of Civil Procedure section 1952, and Penal Code section 1417.

Alternatives Considered

The alternative to the proposal would be to maintain the status quo. However, because courts are increasingly becoming the recipients of exhibits and evidence in electronic format, the committee determined a change is now needed to facilitate the use of such evidence by allowing courts to use vendors for storage and maintenance.

Fiscal and Operational Impacts

This section does not require the use of vendor storage. If a court were to choose vendor storage, that would most likely involve paying fees to the vendors. This could be a cost-effective option, however, over requiring in-house capacity and technical expertise to maintain a secure storage system.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is there any type of material that should be excluded from vendor storage? If so, what type of material and why should it be excluded?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Gov. Code §§ 69846, 69846.1; Code Civ. Proc. § 1952; and Pen. Code § 1417, at pages 4–5

Section 69846 of the Government Code, section 1952 of the Code of Civil Procedure, and section 1417 of the Penal Code would be amended, and section 69846.1 of the Government Code would be enacted, effective January 1, 2023, to read:

1 **Government Code § 69846**

2
3 The clerk of the superior court shall safely keep or dispose of according to law all papers
4 and records filed or deposited in any action or proceeding before the court. The clerk may
5 use a vendor to store exhibits lodged or introduced and evidence received by the court in
6 electronic format subject to the requirements of Government Code section 69846.1.
7

8 **Government Code § 69846.1**

- 9
- 10 (a) The clerk may use a vendor to store and maintain exhibits lodged or introduced and
11 evidence received by the court in electronic format.
- 12
- 13 (b) The vendor shall comply with any judicial branch security standards and policies
14 mandated by the Judicial Council or by a court with which the vendor contracts.
- 15
- 16 (c) Exhibits and evidence in electronic format stored with a vendor shall be accessible
17 only by persons authorized by law or court order.
- 18
- 19 (d) If the court orders the clerk to destroy or otherwise dispose of an exhibit or
20 evidence in electronic format and that exhibit or evidence is stored with a vendor,
21 the clerk shall direct the vendor to destroy or dispose of the exhibit or evidence.
- 22
- 23 (e) The vendor shall only destroy or dispose of exhibits or evidence in electronic
24 format as directed by the court.
- 25
- 26 (f) The Judicial Council may adopt rules to facilitate implementation of this section.
27

28 **Code of Civil Procedure § 1952**

- 29
- 30 (a) The clerk shall either retain in his or her custody, or in the custody of a vendor
31 consistent with the requirements of Government Code section 69846.1, any exhibit,
32 deposition, or administrative record introduced in the trial of a civil action or
33 proceeding or filed in the action or proceeding until the final determination thereof
34 or the dismissal of the action or proceeding, except that the court may order the
35 exhibit, deposition, or administrative record returned to the respective party or
36 parties at any time upon oral stipulation in open court or by written stipulation by
37 the parties or for good cause shown.
- 38
- 39 (b) No exhibit or deposition shall be ordered destroyed or otherwise disposed of
40 pursuant to this section where a party to the action or proceeding files a written

1 notice with the court requesting the preservation of any exhibit, deposition, or
2 administrative record for a stated time, but not to exceed one year.

- 3
- 4 (c) Upon the conclusion of the trial of a civil action or proceeding at which any exhibit
5 or deposition has been introduced, the court shall order that the exhibit or
6 deposition be destroyed or otherwise disposed of by the clerk. The operative
7 destruction or disposition date shall be 60 days following final determination of the
8 action or proceeding. Final determination includes final determination on appeal.
9 Written notice of the order shall be sent by first-class mail to the parties by the
10 clerk.
- 11
- 12 (d) Upon the conclusion of any posttrial hearing at which any exhibit, deposition, or
13 administrative record has been introduced, the court shall order that the exhibit or
14 deposition be destroyed or otherwise disposed of by the clerk. The operative date of
15 destruction or disposition shall be 60 days following the conclusion of the hearing,
16 or if an appeal is taken, upon final determination of the appeal. Written notice of
17 the order shall be sent by first-class mail to the parties by the clerk.

18

19 **Penal Code § 1417**

20

21 All exhibits which have been introduced or filed in any criminal action or proceeding
22 shall be retained by the clerk of the court or in the custody of a vendor consistent with the
23 requirements of Government Code section 69846.1. ~~who~~ The clerk of the court shall
24 establish a procedure to account for the exhibits properly, subject to Sections 1417.2 and
25 1417.3 until final determination of the action or proceedings and the exhibits shall
26 thereafter be distributed or disposed of as provided in this chapter.

27

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INVITATION TO COMMENT [ITC prefix as assigned]-__

Title

Rules: Lodged Electronic Exhibits

Action Requested

Review and submit comments by May 21, 2021

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 2.901

Proposed Effective Date

January 1, 2022

Proposed by

Information Technology Advisory

Committee

Hon. Sheila F. Hanson, Chair

Contact

Andrea L. Jaramillo, 916-263-0991

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Executive Summary and Origin

The Information Technology Advisory Committee recommends that the Judicial Council adopt a new rule of court to define and govern “lodged electronic exhibits.” The purpose of the proposal is to provide clarity and facilitate the use of electronic exhibits in court proceedings. The proposal originates with recommendations from the Information Technology Advisory Committee’s Digital Evidence Workstream.

Background

In 2017, the Information Technology Advisory Committee (ITAC) established the Digital Evidence Workstream to investigate, assess, and report on statutes, rules, business practices, and technical standards related to digital evidence, also known as electronic evidence. During the first phase of the workstream’s activity, the workstream completed a survey of the courts about digital evidence. During the next phase, the workstream established a subgroup (1) to work on identifying statutes and rules that need to change to allow courts to implement and receive electronic evidence, and (2) to identify and create new statutes and rules where appropriate. In November 2020, the workstream presented its recommendations to ITAC, including rules defining and governing “lodged electronic exhibits.”

The Proposal

The proposal would add rule 2.901 to the California Rules of Court to define “lodged electronic exhibits” and establish requirements for access, deletion, and exclusion or redaction of certain identifiers. The purpose of the proposal is to provide clarity to the courts, litigants, and the public on the handling of exhibits in electronic format and to facilitate the use of electronic exhibits in court proceedings.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Rule 2.901 would be located in chapter 1 of division 7 of title 2 of the California Rules of Court. This chapter governs general provisions for proceedings in the trial courts. As such, the rule would apply to all proceedings in the trial courts.

The proposal would define a “lodged electronic exhibit” as “an exhibit in electronic format that is not filed, but rather is transmitted to or received by the court for temporary storage pending use at a trial or other evidentiary hearing.” Because a lodged electronic exhibit is only temporarily stored pending use in a trial or other evidentiary hearing, it may ultimately never be used, such as when a party uploads a lodged electronic exhibit and then during the proceeding decides not to present it. Hence, the rule limits access to lodged electronic exhibits to parties and the court. However, once a lodged electronic exhibit is admitted into evidence and becomes part of the record of the proceeding, access would not be limited unless the exhibit was otherwise confidential by law or sealed by court order.

Also, because lodged electronic exhibits are only temporarily stored pending use in a proceeding, the rule requires deletion of lodged electronic exhibits following the proceeding unless otherwise ordered by the court. The court must email or mail a confirmation of deletion to the party who submitted the lodged electronic exhibit.

Finally, rule 1.201, which governs protection of privacy in filed documents, requires removal or redaction of certain sensitive identifiers. Similarly, rule 2.901(d) would require removal or redaction of specified identifiers in lodged electronic exhibits. Rule 2.901 includes the following additional identifiers beyond those used in rule 1.201: dates of birth; Criminal Identification and Information numbers and National Crime Information Center numbers; names of victims; and addresses and phone numbers of victims, parties, witnesses, and court personnel. The committee requests specific comments concerning removal and redaction of identifiers.

Also, similar to rule 1.201, rule 2.901(d) places responsibility to remove or redact the listed identifiers on the parties. In addition, parties are permitted to lodge a confidential list of identifiers and references to replace those identifiers (e.g., “John Doe” in place of a victim’s name). Removal or redaction would not be required for lodged electronic exhibits that are sealed or otherwise confidential by law because the information will not become public even after use in a proceeding.

Alternatives Considered

The alternative to the proposal would be to maintain the status quo. However, because courts are increasingly becoming the recipients of exhibits in electronic format, the committee determined that a change is now needed to create clarity and facilitate the use of such exhibits. The committee discussed the timing for deletion under rule 2.2901(c) and whether it should be “immediately,” but decided that offering no specific timeline gives courts flexibility to delete consistent with their own needs and schedules. The committee also discussed the scope of who can access lodged electronic exhibits and noted that a party would include the attorney of record in accordance with the definition of “party” under rule 1.6(15) of the California Rules of Court.

The committee seeks specific comments on both the timing of deletion and the scope of who can access lodged electronic exhibits.

Fiscal and Operational Impacts

The proposal addresses how lodged electronic exhibits should be handled but does not address storage, although storage of lodged electronic exhibits could become a challenge for courts in terms of storage capacity and technical capability. Furthermore, this proposal would require parties to remove or redact specified sensitive identifiers. The cost to do so is unknown, but a similar requirement exists for filed documents in rule 1.201.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Subdivision (b) limits access to lodged electronic exhibits to parties and the court. Should the list be different—for example, like the one used for remote access to electronic records in rules 2.515–2.522 of the California Rules of Court?
- What, if any, identifiers should be added to the list in subdivision (d)(1)?
- What, if any, identifiers should be removed from the list in subdivision (d)(1)?
- Should subdivision (c) have a specific timeline for deletion?
- Should any lodged electronic exhibits *not* be deleted under subdivision (c)?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 2.901, at pages 4–6
2. Link A: Cal. Rules of Court, rule 1.201,
www.courts.ca.gov/cms/rules/index.cfm?title=one&linkid=rule1_201

Rule 2.901 of the California Rules of Court would be adopted, effective January 1, 2022, to read:

1 **Rule 2.901. Lodged electronic exhibits**

2
3 **(a) Definition**

4
5 A “lodged electronic exhibit” is an exhibit in electronic format that is not filed, but
6 rather is transmitted to or received by the court for temporary storage pending use
7 at a trial or other evidentiary hearing.
8

9 **(b) Access to lodged electronic exhibits**

10
11 **(1) A lodged electronic exhibit may be accessible only by the parties and the**
12 **court until it is admitted into evidence.**

13
14 **(2) If a lodged electronic exhibit is confidential by law or sealed by court order,**
15 **it does not lose its confidential or sealed status by operation of this rule.**

16
17 **(c) Deletion of lodged electronic exhibit if not admitted into evidence**

18
19 Unless otherwise ordered by the court, if a lodged electronic exhibit is not admitted
20 into evidence, the clerk must delete it after the hearing, proceeding, or trial for
21 which it was submitted, and email or mail confirmation of such deletion must be
22 sent to the submitting party.
23

24 **(d) Exclusion or redaction of identifiers**

25
26 **(1) Identifiers**

27
28 **To protect personal privacy and other legitimate interests, parties and their**
29 **attorneys must not include, or must redact where inclusion is necessary, the**
30 **following identifiers from all lodged electronic exhibits, unless otherwise**
31 **provided by law or ordered by the court:**

32
33 **(A) Social security numbers. If an individual’s social security number is**
34 **required, only the last four digits of that number may be used.**

35
36 **(B) Account numbers. If account numbers are required, only the last four**
37 **digits of these numbers may be used.**

38
39 **(C) Complete dates of birth. If a date of birth is required, only a partial date**
40 **may be used.**

41
42 **(D) Criminal Identification and Information numbers and National Crime**
43 **Information Center numbers.**

1
2 (E) Addresses and phone numbers of victims, parties, witnesses, and court
3 personnel.

4
5 (F) Names of victims.

6
7 (2) The requirements of subdivision (d)(1) do not apply to lodged electronic
8 exhibits that are sealed or otherwise confidential by law independent of this
9 rule.

10
11 (3) Responsibility of the party lodging the electronic exhibit

12
13 The responsibility for excluding or redacting identifiers identified in (d)(1)
14 from all electronic exhibits lodged with the court rests solely with the parties
15 and their attorneys. The court clerk will not review each electronic exhibit for
16 compliance with this provision.

17
18 (4) Confidential reference list

19
20 A party may replace a redacted identifier with a reference. If a party does so,
21 the party must lodge electronically, along with the lodged electronic exhibit,
22 a reference list. The reference list is confidential. The reference list must
23 identify each item of redacted information and specify the reference that
24 uniquely corresponds to each item of redacted information listed.

25
26 **Advisory Committee Comment**

27
28 **Subdivision (d)(1)(C).** A partial date could include something like the month and the day, but not
29 the year; the month and the year, but not the day; or the year alone.

30
31 **Subdivision (d)(4).** In the course of some proceedings, it may be necessary to refer to identifying
32 information in lodged electronic exhibits. For example, in a case involving identity theft, the
33 court, parties, and witnesses may need to refer to financial accounts without publicly disclosing
34 the particular identifiers. The rule allows the parties to use references in place of the identifiers.
35 For example, a party could reference “Checking Account #1” rather than the actual checking
36 account number in a lodged electronic exhibit. The confidential reference list would include the
37 complete identifier (the actual checking account number) and corresponding reference
38 (“Checking Account #1”).