

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts website. What follows is captured live captioning, formatted and unedited, of the last meeting. The official record of each meeting, the meeting minutes, is usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts website at www.courts.ca.gov.

>>> Welcome back to our two-day meeting. We have several council members who are actively engaged in their day jobs and will be a few minutes late. I remind council members about our audiocast and the need to speak into their microphones and address each other by name and identify yourselves as well. Continuing our meeting we'll hear from the internal committee chairs with their respective Judicial Council presentations and begin with Policy Coordination and Liaison Committee, Judge Kenneth So.

>> The Policy Committee has met five times since the last council meeting. This will be our busy season. We met three times in March and twice in April, taking positions on behalf of the council on 19 pieces of legislation. We approved seven legislative proposals to go out for comment and adopted recommendations on one proposal for Judicial Council sponsorship. I will highlight only the bills on the discussion agenda, and all others can be found in the minutes posted with the council meeting agenda. On March 6, PCLC acted to support, if amended and funded AB 1591 related to the firearm reporting requirements to the Department of Justice. At its March 22 meeting, the committee recommended council sponsorship of a legislative proposal on civil restraining orders and took a neutral position on AB 1932, which relates to appellate court decisions. At the same meeting PCLC voted to oppose unless amended—neutral, if amended—AB 2089 dealing with domestic violence, and a support position on AB 2195 dealing with juvenile truancy. We met twice dealing with AB 2085, which is the one-time amnesty program for fines and bail, once on March 18th and April 10th. Initially our position was to oppose the bill. After further discussion we have withdrawn the opposed position and took a no position with direction to staff to work with the author and other interested parties. This is, of course, a potential revenue raising measure. On April 17th our committee continued sponsorship of AB 1657's original intention to provide interpreter services to all parties in all cases. PCLC voted to support, if funded, AB 1773 dealing also with public contracts and took a neutral, if amended, position on AB 2476 related to public employees' pension reform act of 2013. The chief described some of the meetings after her State of the Judiciary speech. That was a very robust discussion with members of the Legislature and guests. In addition, the Bench-Bar Coalition's Day in Sacramento occurred the same day, and we met with many legislators on issues of critical importance to the branch. Finally, our Judicial Council-sponsored proposals have all been introduced and continue to move through the legislative process. We will keep you informed of the progress of this council-sponsored legislation and other bills of interest to the judicial branch. Chief, that completes my report.

>> Thank you, Judge So. Next, we'll hear about the Executive and Planning Committee, Justice Douglas Miller.

>> I'd like to highlight just three things. My written report will be posted online after the meeting. First, I want to thank the California Judge' Association and their president, Judge Glusman, for their interest in the Judicial Council and how it works and the interview they conducted of me as chair of E&P. I truly appreciated the opportunity to explain to your broad membership of judges who we are, what we do, how we work, and how we make decisions, and I, again, sincerely appreciate that and hope that they will interview others. I volunteered all of you to undergo that. Just as a note, if you had the opportunity to read the interview and want to nominate the judge for a Pulitzer, please do. Secondly, our committee met on Wednesday to review annual agendas for our many advisory committees. I believe review this is one of the more significant reforms instituted by the Chief Justice and the Judicial Council. We all remember in the past that we had a number of advisory committees, task forces, working groups, and committees that may not have reported to the council or anyone and sometimes headed off in many different directions without oversight or direction or guidance from the Judicial Council. The committees did and continue to do great and important work but sometimes they committed -- they created a number of subcommittees and other aspects that put a strain on our limited staff resources. It was, in some sense, a lack of governance by us, the Judicial Council, and it was something the Strategic Evaluation Committee discussed. I want to thank Judge Wachob and Judge McCabe for your work on that committee and bringing some of those issues to our attention. Over the last couple of years we've streamlined the number of committees and made sure every single committee reports to an internal committee chair and a committee on the Judicial Council. We do annual reviews of each committee to make sure we stay on task and to make sure we're accountable in that regard. Finally, I'd like to give a special thanks to the Chief Justice for her constant outreach efforts. While she alluded to these in her report yesterday, I can personally attest to the passion and intellect she demonstrates when she tells us and others about the branch and especially the opportunities she has to engage the young and not so young. After a function in Sonoma, an eighth grade girl was quoted in the newspaper. She said, after listening to the Chief Justice, she realized anything was possible. That's why education is so important. I can remember an outreach of the Supreme Court before this Chief Justice that came to the Palm Springs area where a young girl listened to Justice Kennard talk about her route to the Supreme Court and when this young girl left the podium and walked over to where I was, she had tears in her eyes, a young Hispanic girl who said if she can do it, I can do it. I also had the privilege last month to be on the stage with the Chief at an event in San Bernardino. After she left, so many of the members came up to me to tell me what an opportunity it was to hear her and how inspiring she was. Again, thank you for what you do in that regard. It's important and significant and thank you. Thank you. That's my report.

>> Thank you, Justice Miller. Next we'll here from Rules and Projects, Justice Terry Hull.

>> Good morning. The Rules and Projects Committee has met four times and has considered a report by e-mail since the Judicial Council last met on February 20. On March 21st, RUPRO met by telephone to review the annual agenda of the Mental Health Implementation Task Force and also to review two templates to be used by advisory committees in their communications with RUPRO and further to review 10 proposals that circulated for public comment during the winter rule cycle. RUPRO approved the annual agenda and templates and recommends to the council approval of those 10 proposals, which are set forth in our materials today as items A1 through A9 on the consent agenda and item M on the discussion agenda. Along with the Executive and Planning Committee, RUPRO met by telephone on April 11th and 15th to consider the rule on open meetings of Judicial Council advisory bodies. RUPRO recommended approval of this rule proposal, which was item 1 on the council's agenda yesterday. RUPRO met by video conference on April 16th to consider 20 proposals to circulate for public comment in the spring 2014 rule cycle. RUPRO approved 16 of the proposals. These proposals are posted for public comment through June 18. Following circulation and further review by the advisory committees and RUPRO, these proposals are expected to come before the Judicial Council at the October 2014 business meeting. On April 14, RUPRO members by e-mail also considered a technical amendment report relating primarily to technical amendments to forms to avoid confusion for court users, clerks, and judicial officers. RUPRO recommends approval of this report, which is item A10 on the consent agenda. I will only add that having been chair of RUPRO for approximately 2.5 years, I still have difficulty pronouncing that acronym. And that's my report. Thank you.

>>> Thank you, Justice Hull. Next we'll hear from the Technology Committee, Judge James Herman.

>> Technology report will cover the tech committees' activities since the February council meeting, an update on the Technology Planning Task Force, a report on the Joint Governance Subgroup between CTAC and JCTC, the results of the Trial Court (?) survey, the finance report, and an update on the California State Auditor's report on the 2013 judicial branch procurement audit, which deals with information technology systems security, both physical security and electronic security. So the Judicial Council Technology Committee, since our last committee meeting, the Chief has appointed two members, which I'm pleased to welcome aboard, Judge Rubin and Judge Nadler. Both have chaired their local court technology committees, and Judge Nadler has also been a long-time member of CTAC. So both are welcome and both will, I'm sure, will make terrific contributions to our committee. We've held two telephonic and one face-to-face meeting since February. I won't go over individual agenda items that fall under the other categories that I started out with at the March meeting, though we did address the recommendation from Trial Court Budget Advisory that the JCTC develop a plan to eliminate subsidies to V3 and SJE systems, that is Sustained Justice Edition systems, hosted by the Tech Center. At the April 3rd meeting we approved additional ITSO staff hours to implement Imperial County Superior Court's request for installation of an interface that will allow that court with

substantial savings to the court to allow the public to pay traffic and criminal fines online. We approved the jury grant programs 13/14 budget year proposed funds distribution and yesterday's meeting the committee discussed again potential methodologies with the assistance of ITSO and other staff for elimination of the IMF and Trial Court Trust Fund \$2 million annual subsidies to the eight Tech Center-supported Sustained Justice Edition courts. We also explored the impact on these courts, reductions in subsidies in relation to WAFM, and the courts current deficits, and all of these courts, by the way, are in deficit at this point. Six of the eight are historically underfunded courts by way of the WAFM evaluation. We received updates on remote video interpreting and funding strategies for technology and additional updates on other subjects as well. As chair, I attended the CTAC April 10th and the Information Technology Manager's Forum April 28th in Santa Barbara. The forum has been terrific. They are subject-matter experts obviously, as IT managers throughout the state. They've been terrific in helping us on a number of projects, including the planning task force. The Technology Planning Task Force on distributed for branch review starting on March 18th and closing on April 7th The planning documents, and the task force received 32 individual comments from 13 courts and one working group. Those have been helpful in further developing a plan. On Thursday, April 17, the task force posted the planning documents for 60-day public comment. After the close of that public comment, the plan will come back before the Judicial Council and JCTC for approval. There is a joint governance subgroup that we reported on briefly last time between JCTC and CTAC in anticipation of council action on the planning documents to work out government issues prior to the July meeting and we've met a number of times. That subgroup includes myself, Vice-Chair Judge De Alba, Justice Ashmann-Gerst, and on the CTAC side Justice Bruiniers, Judge Glen Reiser, Judge Dan Buckley, Jake Chatters, and Rob Oyung, and also from JCTC Judge Terry Jackson. CTAC sent out a Trial Court e-filing survey, the results of which will be helpful in terms of our plans going forward relative to e-filing. That has been circulated to the council. I will not go through that survey item by item. And finally let me talk a bit about the California State Auditor's report on judicial branch procurement audit. So this is an update on our response to that audit. It addressed electronic data security and security of data systems, both physical and virtual. It's important to note that this audit did not identify any actual security breaches, so it is a theoretical report that addresses various ways we can improve our IT system security. They did not find any situations where the data in the systems was incorrect or inaccurate. This is important because in Phoenix in terms of the financial reporting, it's important that that system be accurate in terms of branch reporting because of the degree to which we as well as our justice partners depend on that reporting. Major findings of the report identified (1) the need to create or adopt and implement a framework of information systems controls for the judicial branch to improve controls over access to systems, to implement the established best practices for general and business process application controls, to keep contingency planning and disaster recovery plans updated and current and to correct identified system control weaknesses, identified in the internal audit services reports. In terms of progress of meeting that audit, we are in line at the branch level to develop the systems and the suggestions submitted in the audit report by June of

this year with complete implementation by December of this year. At the trial court level, it's a little bit more difficult because of budget constraints in terms of the trial courts coming in line with the audit recommendations and the timelines suggested. That being said, and I know there's concern at the trial court level from my attendance at the forum last Friday, the trial courts are working in that direction. They are being provided with support in terms of what the standards should be, national standards should be, relative to security of information technology systems, and we will continue to assist the trial courts in terms of meeting the security recommendation deadlines. After the Judicial Council adopts the proposed information systems security framework for the judicial branch, the AOC will continue its implementation process hitting the December deadline. Any questions particularly about the last piece? The CSA audit? Everybody's on the edge of their seat. [Laughter] A lot of people saying we can hardly wait for the Tech Committee report. I really didn't drag you through all the acronyms that we have to deal with on a daily basis. Thank you, Chief.

>> Before we move to the liaison reports, I want to remark on this because the full reports for the internal chairs reflect how the branch operates statewide. The four reports by the chairs are really executive summaries of the multitude of work that's done by the 400 volunteers statewide of judges, lawyers, and subject-matter experts. While we hear these reports and they are accessible online and you can see all of the meetings, it's based on volunteer work of folks who decided to give their time and expertise free of charge, to making the branch run statewide to fulfill the goal of council as it was first created by the constitution. That is, where complaints are lodged, it's up to council to solve. That's what these committee reports reflect: the work of so many volunteers and their proposals to council as well as what's reflected in our agenda and the consent items, which are on consent but reflect hours upon hours of work by volunteers to make truly statewide policy and rules applicable so that every litigant in our 38 million population have equal access. So in keeping with continuing to have a statewide voice and to spread information and to have give and take, we're pleased now to hear from Judicial Council members, in addition to their work on the committees, report to us on their liaison reports. So we'll start with Justice Ashmann-Gerst reporting on the Superior Court of Mono County.

>> I met on April 2nd with the two Mono County judges, Judges Eller and Magit. Because I'm so involved with the tech committee and the tech task force I started by explaining the current status of the task force to them. Their situation is that they have one part-time tech person who does everyday kinds of repairs. They still have an old DOS case management system, and their IT person is needed on a day-to-day basis. I asked if they could participate in a group effort, they said they would love to but the IT person is needed on a day-to-day basis and would not be available to help with new projects. For them, transitioning to a new CMS would be difficult without the support of the AOC. Their concern would be training and the time it would take to transition, so their IT is really reliant upon the staff from the AOC. As far as staff goes they have six or eight clerks. They're short several but they have not had to lay off anybody. However, they have not replaced five people who have left. So they're stretched pretty thin. On the reserve

issue, they said that's going to prevent them from hiring the people they do need, that the clerks are currently overwhelmed. While the criminal cases have remained stable, the civil cases have skyrocketed. They're seeing an increase in foreclosures and personal injury cases that relate to the mounting family law issues. They're also getting loads of construction defect cases from those units, the condos, that were built in Mammoth that are pushing up to their 10-year statute of limitations. They're getting very big, complex construction defect cases. They can't pay overtime based on their funds. So at 5:00 that's it. They're done. No matter what. Of course that inconveniences jurors, attorneys, and litigants. I asked about the court reporter situation. They said they supply court reporters in civil only for the morning law and motion calendar. Otherwise the attorneys have to bring their own. There are logistics issues for reporters based on the physical location of the Mono courthouse. They got to be -- they have been creative with the use of telephonic interpreting. They did have a Hmong speaker and, of course, there was nobody available in the Mammoth area so they have used telephonic interpreting, which was successful. They also use video arraignments, bail review kinds of matters that the sheriff's department has set up, and they're very, very liberal when it comes to court call. They allow court call on all matters even on evidentiary and summary judgment motions. They wanted me to emphasize and it coincides with what was said yesterday about CJER, they like all the education provided by CJER and feel it is so important. They also like the different methods of delivery. They appreciate the opportunity to go and meet with other people and exchange ideas. They get -- they also get wonderful human resources support from the AOC, which, of course, their size court, they can't do it on their own. They did want me to mention one thing. They wanted me to say that they're troubled by the ongoing hostility and antagonism that's fostered by all the accusations against the AOC. They would like to see a more offensive approach rather than seeming to be on the defensive. They also think that the relationship between the council and the CJA is greatly improved by the new Chief and her availability and transparency and transparent approach to all the issues, and that concludes my report.

>> Thank you. Justice Hull?

>> Thank you, Chief. Justice Ashmann-Gerst's report brought forth a thought when you mentioned the construction defect cases in Mono County, which frankly never occurred to me until you mentioned it. It's just another indication. We try very hard to convince the Legislature and the executive branch that the 58 counties are, indeed, 58 different counties facing different circumstances and, indeed, in this case even within those counties because of the 10-year statute of limitations the conditions on the ground, if you will, change all the time, and the 58 counties and their superior courts need to have the flexibility and the funding to meet those changes. That's another indication of what we've been trying to talk about.

>> Thank you. Next we'll here from Presiding Judge Stout reporting on Kern County.

>> Thank you, Chief. First, being the next door neighbor of Mono County, I'm glad they didn't blame me for stealing the court reporter. [Laughter] I do enjoy very much working with my

colleagues in Mono County and a lot of collaborative efforts and, of course, the appellate division. They're very generous in reciprocal assignments and I appreciate all their hard work. On March 24th of this year I had the pleasure of visiting the Superior Court of California, County of Kern, and their main facility in Bakersfield. I was warmly received by Presiding Judge Colette Humphrey, former Presiding Judge Michael Bush, and their court executive officer, Terry McNally. Kern County has a population of about 850,000. It encompasses over 8,000 square miles. Geography poses significant access issues for them. There are four state prisons located within Kern County: Wasco, Tehachapi, and two in Delano. And much of our discussion focused around the effects of having the state prison facilities within their jurisdiction. They have 11 court facilities. Due to budget constraints they've indefinitely closed the Lake Isabella or Kern River facility back in June of 2013. The Taft facility is closed four days a week. Two of their facilities—Delano and Mojave—were slated to be replaced by new SB 1407 funds. Due to the diversion of construction funds, both were indefinitely delayed in October of 2012. [Captioner transitioning] > Both the Delano and the Mojave courts serve prisons in their current condition reportedly raises serious security concerns. Often the prison inmates are bused to court in Bakersfield to avoid the security risks attendant to hearing their matters in Delano or Mojave. Of course, increases costs, and imposes an increased burden on judges and staff in Bakersfield. Being very concerned with security, their CEO Mr. McNally is hoping to find funding to create secure judicial parking and security upgrades at their Shafter, Mojave, and Lamont facilities. The downtown Bakersfield facilities are multiuse. While definitely aging, they report of generally being well maintained. Heat and air upgrades remain a significant issue, particularly in the summer. They were very grateful for the Trial Court Facilities Modification Advisory Committee's action this past March addressing their inadequate plumbing system at the Bakersfield juvenile center. Recent flooding was apparently so bad it filled their elevator shaft, rendering it totally inoperable. With respect to access and service, due to budget constraints, all operations, counters, and phones close daily at 3:00 and noon on Friday. Their abandoned phone calls have increased from 20 percent to 40 percent due to vacancies. I visited their Self-Help Center, family law facilitator offices, and they are fully booked by 10:00 in the morning. To help alleviate this problem, they took a portion of their allocation of the \$60 million in fiscal year 2013–14 to add two people to the Self-Help Center, but they are still fully booked in the morning. Lack of resources has severely limited their ability to provide adequate one-on-one assistance. They've been very creative in providing group assistance to self-represented litigants. Their court executive officer wishes he could double the physical space for their self-help center as well as the public and staff space in their family law division. The inability to adequately address the needs of self-represented litigants is translating into continuances and longer court hearings. I would indicate as I was touring the facility, I was introduced to a veteran family law attorney who shared with me that back in 08–09, they thought the court did staff the family law division to where they were really making great strides in progress in terms of access to Justice, meeting the needs of their clients. During a part of last year, but it's improved now, last year they were down about three quarters of the staffing they saw in 08–09. I was pleased with this veteran

attorney, someone speaking on behalf of the local bar, saying they certainly understand the desperate situation the court is in and was committed to appropriately working with the courts to try to function together as effectively as possible until we get through this challenging time. Reduction in staff as I alluded to is a serious concern. Overall from the authorized level in '08-'09, they've incurred about a 23 percent reduction in staff; staff has not received a raise in five years. The court had very high praise for their staff, the quality of their work, and in particular how well they've handled the increased workload, especially for as long as they have. But there are, of course, concerned about staff morale and fraying around the edges, which is inevitable over the long period of time of that burdensome workload. The projected \$100 million statewide reinvestments for fiscal year '14-15, the current court projects about one half will come off the top for unfunded pension health costs. Of the balance, they foresee only being able to add about 10 positions, which they indicate is clearly not enough to meet their needs. They're using a significant amount of their fund balances to invest in technology, migrating to a new case management system, Tyler. Like everyone else, they are very concerned about the 1% reserve limitation. They share cash flow concerns related to payroll and the ability to invest in infrastructure. They historically have been able to manage the peaks and valleys of caseload fluctuations by hiring part-time employees from their reserves. Not being able to do so as of July 1 will further increase the burden on an already overworked staff. As their CEO told me, if I had my reserves, you wouldn't be hearing from me at all. They are authorized for 39 judges and seven commissioners. They currently have six judicial vacancies including three unfunded judicial positions. They also anticipate additional retirements in the next few years. The 13% vacancy is taking a huge toll on the bench. Presiding Judge Humphrey has her own calendar. In the morning I visited, she was trying to fit 60 jury trials into five courtrooms. I toured very busy courtrooms. Heavy calendars. They report the criminal workload has basically doubled, and the effects of AB 109 realignment have been significant. Chief Judge Bush asked me to personally thank you for making an assigned judge available to assist with a significant influx of prop 36 three-strike cases with potential resentencing and found that to be a tremendous help. Civil cases coming out of the prisons are an increasing frustration due to the inability to get the cases completed in a timely manner. Most of the cases are pro-pers, requiring significant resources, and they found that these cases frequently get stalled due to the movement of the inmate litigant to other state prison facilities. They are requesting that the Civil and Small Claims Advisory Committee perhaps take a look at this issue and see if there might be some possible remedies administratively or through video proceedings. I met briefly with the director of their revenue recovery program and was very impressed with their efforts to ensure compliance with court orders. In response to increased need, they're looking into trying to find a way to start a mental health court. And I think they should be commended for keeping judicial officers assigned to the juvenile court for at least three years. One of their current vacancies happens to be in the juvenile court. The Kern court is desperately looking for help in getting their judicial vacancies filled as quickly as possible. I think this was their number one-- or one of their primary concerns. They expressed concern regarding the ability of the judicial branch as a whole to recruit the best

possible judicial candidates. They strongly believe this is a statewide issue. It's not just salaries. They find their well-qualified attorneys, including government attorneys, exceed judicial salaries. But they expressed the belief that the amount of mandatory retirement contributions has had an adverse effect statewide on the ability to recruit the best possible judicial candidates. They also cite the need for JRS2 reform. Again, they hope and ask for any available and appropriate assistance in filling their judicial vacancies as quickly as possible. They are very grateful to the Administrative Office of the Courts for assistance they received. They particularly mentioned Legal Services Office and mentioned attorney Mr. Michael Giden in particular as being very responsive and helpful. They are also very appreciative of the Litigation Unit, and of course as I mentioned, the Assigned Judges Program. It was a pleasure meeting with them. I met some very caring, creative, and hard-working professionals. The residents of Kern County should be very proud of their local court. That's my report. Thank you.

>> Thank you, Judge Stout. I know I speak for all council when council members liaison, go meet with courts, have a face-to-face and are able to bring back these very vivid descriptions of what's happening in the courts of all sizes. And as reflected and mentioned already, the challenges are different in every county. But nevertheless, they all reflect the budget cuts that have affected the courts. We talk about them in terms of court hardship and lack of staff and closed windows and early hours. What we really are saying by that kind of reference is we're shutting out the public, people who have grievances and are trying to press their rights. That's what the description of all of these courts' hardship is about. We are closing and turning a shoulder on people who have a crisis. Either its familial or professional or otherwise. And so when you bring these facts to us, every one of us as judge or lawyer around council, we cringe because we can vividly see it in our eyes, having our own experience and our own courts. I'm grateful that you do this and I'm grateful we are able to get this communication. I would also point out that time and again after hearing the liaison reports and visiting courts, I'm struck by the remarkable people who work in our courts, who have not have had raises for five to seven years, who do multitask, who are working -- the windows close at 3:00 but they're working as long as they can until they can finish the work. They are doing it with outdated materials and old technology, with fewer people, trying to work people's business. And really I'm grateful to work with people like that in the judicial branch. Justice Miller, did you have your hand up?

>> No. We have public comment, though.

>> Yes, we do. As Justice Miller has indicated, we have public comments. Please proceed.

>> We have a general public comment from Mr. Martin Fox, attorney-at-law. He would like to speak on criminal justice realignment. If you would approach the podium? Thank you for being here. You have three minutes. Thank you.

>> Good morning, honorable Judicial Council members. Thank you for your service to the State of California and its judicial branch. I'll get to the point. Please use the criminal justice

realignment discussion as an opportunity to examine the reasons why assisted outpatient treatment was certified by the United States Department of Justice as an effective, efficient, and humane recidivism reduction program and consider recommending the implementation of Laura's Law throughout California. I'm currently an article three and a former article one lawyer. My name is Martin Fox, and I am here as a former self-represented litigant who failed to obtain a mental health treatment order in the course of a domestic violence prevention act proceeding in San Mateo County against one of my adult children who was living with mental illness that is complicated by insight deficiency which prevents them from volunteering for treatment in the county they are currently living in. My grandfather served with General Pershing's American Expeditionary Force in France during World War I. My father served with General MacArthur at Okinawa during World War II. I served with the 11th and 32nd infantry regiments of the second, fourth, and fifth infantry divisions during the Vietnam War era in the early 1970s. Thanks to the heroism of Staff Sergeant Jackie Hubbs, I was able to return to what we called the real world and report to the headquarters commandant at Fort Ord, California, Colonel Reese M. Lane (?), who had the temerity to appoint me a company-grade infantry officer as courts and boards officer. Colonel Lane's courts and boards officer was responsible for returning to active duty Department of the Army deserters and AWOLs apprehended by civil law enforcement authorities in the western United States. Consequently, the Monterey County Sheriff delivered an average of over 2,000 troops a month who were apprehended through the Monterey County Jail back to Fort Ord. Colonel Lane believed that fellow soldiers who deserted or went AWOL deserved an opportunity to receive an honorable discharge even if they suffered a mental injury. That means my staff and I saw soldiers returning with serious mental illness on an industrial scale every day for several years as the Vietnam War was winding down. The Pentagon announced last summer that the Army's troop strength will be reduced by 100,000 as Afghanistan winds down by the end of the year. The Department of Veterans Affairs is already at capacity and not ready for the return of treatment resistant, noncompliant female and male service members who were trained to be violent, like me. And the counties aren't ready either. The San Mateo County health system and many others like it hide behind the civil and criminal immunity provided by the [?] act so they can use the brutality of the streets to modify the behavior of persons living with serious mental illness who are insight efficient. Their irresponsible, inhumane, and immoral policies and procedures have turned our jails and prisons into dungeons of despair for persons living with mental illness and their families. Their irresponsible, inhumane, and immoral policies and procedures keep producing deaths and serious injuries like the justifiable shooting which took the life of a veteran living with PTSD in Stockton on January 25 and more recently the justifiable shooting which took the life of a veteran's son living with schizophrenia in Pacifica on March 19. The adoption of Laura's Law is a responsible, humane, and moral way to address the issue of treatment resistance and noncompliance of persons living with serious mental illness who are insight efficient. Please use the criminal justice realignment discussion as an opportunity to examine the reasons why it was

certified by Department of Justice as an effective, efficient, and humane recidivism reduction program and consider recommending the implementation of Laura's Law statewide. Thank you.

>> Thank you, Mr. Fox. Thank you.

>> That concludes the public comment. Is there anyone else here today who was going to make general public comment? No others, Chief.

>> Thank you.

>> We are ahead. The individuals here on realignment are running a little late because of the weather. So if it's okay, we'd like to move item N up until now.

>> Yes. Let's take our consent agenda and then item N. So first on our consent agenda, we have items A1 through A10 through F. Fifteen items. Do I hear a motion to move the agenda? Thank you, Judge Jacobson. Thank you, Judge Rosenberg. All in favor of moving the consent agenda please say aye. Any opposed? Consent agenda moves. Now we move to item N, which is on -- scheduled for 2:35 -- sorry, 2:55, AOC Restructuring Policy, 8.9, Working Remotely, that is telecommuting, the pilot program, the one-year update. Thank you, Judge Jahr.

>> First, though, Item N, is there anyone here who is going to make public comment on Item N? No one has indicated.

>> Thank you, Chief. Good morning. This is the one-year report to the council called for by the council in a series of actions taken by the council that began with its acceptance of the Strategic Evaluation Committee report and conversion of one of the recommendations in the report to a council directive in August of 2012, specifically to require the Administrative Director to ensure that the agency adhered to the then-existing policy 8.9. Joining me this morning is Ken Couch, director of the HR office, whose office has become central to the administration of the new telecommuting program, which was adopted by the council a year ago on a pilot basis. And he will certainly be available to answer questions if questions are posed concerning the administration of the new program over the last year. As mentioned in August of 2012, the council followed the recommendation of the Strategic Evaluation Commission report calling for immediate adherence to the program. I had actually begun my work informally as of August and one of my first jobs of work was to review the telecommute policy that then existed. I was struck by its imprecision. There were facets to the so-called regular telecommute policy that was authorized that were indefinite. There also existed an ad hoc element to the policy that had absolutely no structure whatsoever. The Strategic Evaluation Commission had observed that there were instances in which a number of Administrative Office employees were telecommuting far more frequently than they were working in the office place. And as I studied and restudied the then-existing policy, I recognized that that was certainly something that was possible and still consistent with the policy because of its indefiniteness. It was my view that the first step that should be taken is that the policy be redrawn to have much more clear and definite contours. It

appears that the council's view on that -- also moved in that direction because in December of 2012, the council asked Administrative Director to consider the proposal of amendments, which we were already working on, and not too much later, the council directive that I also consider recommending alternatives to a telecommute policy including an alternative of terminating the policy. A proposed replacement of policy was presented to the council at its meeting on February last year. By that time, I had schooled myself in this subject matter about which I knew next to nothing as a trial court judge in an environment where telecommuting was an unknown activity. I think that's true in most trial courts in our state. I can't obviously speak for the other institutions of the branch, but it was a new matter for me. And I was surprised during my education to learn that the Legislature and the federal Legislature had commended telecommuting as an appropriate workplace activity. Indeed 20 years ago, California's Legislature encouraged its use in appropriate settings as a tool for enhancing productivity. The literature on the subject revealed that there is a natural tension between advantages and disadvantages to telecommuting, assuming for the sake of discussion that the kind of work that a particular employee does lends itself to remote working or telecommuting. That has been demonstrated in the scholarship to enhance productivity, presumably because of the absence of distractions. But the tension is created because workplace innovation is the product of cross-pollination, of interaction. And by having the isolated workplace environment enhance productivity, it also impedes innovation. So that's a further consideration employers must take into account depending on the mission of the entity that's considering telecommuting and the kinds of work that the folks within that entity do. When the matter was brought forward to the council, after debate it was determined that the proposed replacement policy should be adopted but not adopted without restriction. It was ultimately the will of this body to adopt it as a pilot program only, to operate for a year, with outcomes to be reported to the council through the Executive and Planning Committee at six months and then at a one-year interval here, which is where we are today. During that one-year period of time, the policy this body adopted as a pilot program I modified in several particulars, and the report lays that out. The regular telecommute policy is not available for people who are managers or are supervisors on the strength of the notion that managing and supervising is a hands-on workplace activity and is compromised if done remotely. I expanded that or, if you will, made it more strict to include people who have lead responsibility, who aren't technically speaking managers or supervisors. Also, I recognized that I had fallen prey to an oversight in the drafting of the replacement policy by not considering the impact of the application of the program on part-time workers. Folks who are employed on a part-time basis by agreement who themselves then seek to telecommute remove themselves from the workplace yet additional time beyond those days that they're not there because they're part-time workers. So I declined requests for part-time workers to participate. Also, those whose work required general supervision were declined participation categorically. And it was made more clear than the policy -- the pilot policy perhaps articulated that the Administrative Director would at any time have the right to suspend a person's participation. Renewals also to the extent if approved in the first instance would be required on an annual basis of all regular telecommuting program

participants. And finally, it was agreed that our HR office should review all the approvals after the classification and compensation study produces a new classification system in our agency for obvious reasons. Just as a refresher, the previous program that was replaced by the pilot program had two components as noted, a regular and an ad hoc telecommuting opportunity. The regular program, previously, authorized a person with the approval of his or her supervisor and office, the opportunity to telecommute up to eight days per month. And it provided that the office could also grant exceptions beyond the eight days. The present pilot program instead of eight days per month confers a maximum of one day per week. The previous program had no feedback loop or controls. There was no requirement that there be, for example, work logs presented to the supervisor, let alone to our HR office. The current pilot program requires work logs be prepared and presented by employees who telecommute. Those are audited in effect by the supervisor and also by our HR office. The previous program authorized approval of telecommuting privilege at the office level, but didn't have a higher-level oversight or review process either in the HR office or in the executive office, as a consequence of which of course there was bound to be variability in terms of how the program was applied from office to office. The current pilot program has a multipart process for approval of telecommuting, which first engages the office that supervises the applicant employee and then engages the HR office. Those factors are summarized at the bottom of page seven on the top of page eight of the report. There are various factors that the office supervisor must take into account before deciding whether he or she will propose approval of an applicant's application to telecommute, and then the HR office performs an additional and separate analysis before the request to telecommute is sent to me. This last year, as the report reveals, some 100 applications were initially submitted, 69 were initially approved. The number has gone up and down since then, and we currently have some 65 individuals who are presently authorized to telecommute in the regular program as compared with something like 98 at the conclusion of the operation of the previous program. The number of telecommuting days translates to about 260 days per month. Whereas the previous program logged something more like 450. The old program had an ad hoc feature, which enabled an employee's supervisor to authorize telecommuting on an ad hoc basis. There were no limitations placed on the use of the program in the previous model. There was no mechanism for accounting, for who sought it, got it, and for what durations, and for how much of their work week. No data was collected. We simply have no record of how it worked. The new program provides, as I believe everyone is aware, that people who commute, telecommute on an ad hoc basis, that is to say to address exigent circumstances or unpredictable circumstances, may only do so up to two days per month in any circumstance if approved by their supervisor. Moreover, people who are already approved for the regular telecommuting program may not ad hoc telecommute in any circumstance. There are no regular participants, in other words. In addition, the use of ad hoc telecommuting is logged, and our HR office reviews those approved telecommuting opportunities to ensure compliance with the purposes behind ad hoc telecommuting. We have before you a series of charts or displays. You will see that the regular telecommuting program summary is contained in table one on page four. The experience in the ad hoc telecommuting program is identified in

table two on page five, although there is a separate table associated with the three unusual events that occurred, the two BART strikes and the Bay Bridge closure that the ad hoc telecommuting program was utilized for as well. I suppose I should emphasize that tables two and three do not have an equivalent from the period before the new program was adopted, because there was simply no data collection whatsoever that addressed the telecommuting experience on an ad hoc basis beforehand. Curiously, although only a small fraction of the employees of the Administrative Office are telecommuting in the regular program and a great number of employees are categorically disqualified from even applying for the regular program, the feedback that I've gotten from staff, many of whom are not qualified and could never be considered for regular telecommuting, is of great support for the program and of those who are approved for telecommuting. So it is on that note, I suppose, an interesting phenomenon within the agency that the program is broadly supported even though it is only applied to a small number. I'd submit to you that while it certainly took a while for me to get my arms around the notions supporting telecommuting, that it is a sound business practice if properly applied and prudently overseen. That it is one that makes our agency more competitive, especially since the bulk of our employees work in the San Francisco Bay Area where telecommuting in many occupations is a very common phenomenon. In fact, as everyone knows, and as I learned, the private sector authorizes telecommuting at higher volumes and has for years than the public sector, notwithstanding the statement of public policy support for the telecommuting by public employees in appropriate circumstances. I suggest and commend that our HR office has done a fine job in consulting in a constructive and positive way with the offices in the agency as they have adapted to the new program and has responsibly overseen the program to ensure that it was properly administered this year for your consideration. There are four potential outcomes at this juncture. I respectfully request that at this juncture, the council embrace the present rule as further restricted by the steps that I took during this year's period as interlined on your fifth attachment, which is the rule that you adopted as a pilot rule with proposed additional changes, and suggest also that should you have any questions of me or of Ken Couch, we are more than happy to respond.

>> Yes, Judge Elias.

>> I have a couple questions. You said there was something like 65 or 69 people telecommuting currently?

>> On the general -- the regular program.

>> On the sheet, it says there are 85. Is that a mistake? What happened to those other people? Page two, current status of 85 regular employees.

>> I will defer to Ken.

>> Page two on my binder, current status, 85.

>> You may be looking at a report that is an earlier report. We provided the initial report that you saw at your February meeting. Then we provided a follow-on report. We did the Executive and Planning Committee six months into the program. The current numbers are set out at the bottom of page three of the present report before today for your consideration, which shows I think that that number is presently 65.

>> Judge, I think you are looking at the memo from Judge Starr's presentation February 2013.

>> I do have another question.

>> Sorry for the confusion.

>> I thought I was current.

>> We also had the old rule, the rule that the council adopted, and then finally the proposed rule for your consideration that represents the adopted pilot policy with proposed additional changes. So it is a bit confusing.

>> The people that are telecommuting, if they are not managers, supervisors, or lead, what do they do that they can do it at home? Like the IT people? What can they do at home?

>> Ken actually amalgamated those things from the work logs. There are several subject matter areas that recur over and over again. I believe that's laid out in the report. Ken?

>> Yes. On page four of the report, the most common reported tasks from the work logs submitted by employees to the supervisors and reviewed by HR is listed on page four. You have to be able to do at home what you could do at work.

>> So what is that?

>> Research, if you are a research attorney, you can do that at home. Some IT work, if you are drafting or preparing reports or memoranda, you can do that at home.

>> Not working on equipment?

>> No. No.

>> There are six bullet items near the bottom of page four. They summarize the most common tasks that are authorized and performed.

>> Judge Jackson and Judge Rubin?

>> Six months ago at E&P, I expressed some concerns about the ad hoc telecommuting during the transit troubles. And frankly, across the street, we had our people come to work. Now, granted it was going to be difficult with the BART strikes and the Bay Bridge closure. And I even had to commute and had to start earlier. I'm a little concerned. I support telecommuting but

when it comes to the BART strike, Bay Bridge closure, AC strike, or whatever the case may be, that is a little troubling when everybody else had come to work.

>> The only way I can respond to that is that first of all, people weren't given a day off without either having to take it as a vacation day or being approved in advance to telecommute, because there was work that they were able to take home and do all day. I suppose that's the first thing I should mention. We didn't view the program as being sort of a surrogate for time off without a charge against vacation time. Ken? I'm sorry. I think I interrupted you.

>> That's all right. I understand that. If you look at the chart on page seven, you see the usage in the first BART strike was quite a bit higher than the Bay Bridge closure and the second BART strike. On evaluation of what was made available during the first strike, there was a very short notice, I think the judge and executive office determined for the Bay Bridge closure and the BART strike, there would be no expansion of the ad hoc. You could either alter your workday and work week with permission of your supervisor or if you were otherwise eligible and had not exceeded your two ad hoc days, those were available per policy. I think after the evaluation of the first one, we saw the usage, pretty high, 168. The judge made the policy determination that we would not expand the ad hoc for the second and third event.

>> I wanted to second -- this is Frank Maguire -- what Judge Jackson's concerns were. The AOC obviously shares this building with two courts, the Supreme Court and the First District Court of Appeal. We have our clerk's offices that have to remain open for business. And it created real morale issues in our clerk's office when they saw rather liberal telecommuting being allowed for people who weren't in customer service positions and they had to somehow find a way to make it in from Antioch to staff our clerk's office counter. We were able to do some staggering of work hours, sort of on an ad hoc basis, to basically allow people to stagger their work hours so we could adequately cover things. I think it's not really a complaint. I think we need to be sensitive that we are all sharing workspace and that what's done in one agency can be perceived in certain ways by the courts and particularly by our customer service employees who don't have the same flexibility in their schedules.

>> Judge Rubin, then Judge Baker.

>> I have a question for Judge Jahr or for Ken: of the 700 and some employees at the AOC, what percentage were eligible for telecommuting?

>> For the regular program?

>> Right.

>> I don't know whether we have

>> I don't know that we've computed that but the 719 odd regular positions, if you eliminate the supervisor and above and then anyone in lead capacity, it drops the number down quite a bit. I

don't know -- I don't think we computed that number, did we? We didn't compute that number. We figured it as a percentage of the total available employees rather than the ones that were eligible. Based on the judge's policy interpretation of the original one where it did not specifically exclude leads. That added quite a few more people that were not eligible to participate. To answer your question, I don't have that figure right now.

>> After Judge Baker, Judge Wachob.

>> Very thorough report. I see this as essentially a management issue. This is a valuable tool for the director to have in his toolbox. Whether it's utilized or not depends upon factors that we can't possibly predict at this time. The BART strike and the closure of the Bay Bridge are two good examples. But given the financial crisis that we've been dealing with and given our dedication to access to justice, this is just a tool that we can't live without. All of the appropriate safeguards are set forth in the report. I would move that we adopt option one.

>> Second.

>> Second by Judge O'Malley. We still have further discussion. Judge Wachob, Judge Rosenberg, Judge Brandlin.

>> Just a question and a comment. First of all, I think the pilot program has been good to the extent that Judge Jahr has been able to manage and get a handle on what's been going on with telecommuting. But in terms of the options before the council, it seems to me in terms of timing with the classification study coming down the pike, that's going to change a lot of things. It seems to me that maybe option two would be a preferable option, which is to basically walk gingerly, take this program on a pilot basis for another year, see what classification does to this organization before the pilot program was locked in. So that's my first comment. My second one is this: there's a range of alternatives from approving the pilot program to make it a permanent program all the way down to eliminating all forms of telecommuting. I thought there was another option that may be considered. I don't mean this in a facetious manner at all, but what about a pilot program at some point where telecommuting is eliminated for a short period of time, six months to a year? So that if there was a true interest in weighing telecommuting effects on the organization versus no telecommuting, we would have some data, some information and some experience, to make that kind of a decision. Thank you.

>> Judge Rosenberg?

>> To be very frank, I'm of two minds on this subject. On the one hand, I must say that I'm not a great believer in telecommuting. I know from the trial court perspective, there is very, very little if any telecommuting. We're all about customer service on the front lines. And we are there. So I think it rankles a number of people at the trial courts to see telecommuting at any great extent at the AOC. On the other hand, I agree with Judge Baker that this is ultimately a management issue. And I think Judge Jahr and the staff have done a pretty darn good job in trying to get their arms

around it, studying it, and determining what is best for the organization. And I do believe the Judge Jahr has taken control of the situation. We now see less than 10 percent of the employees in the regular program. Is that too high or low? I don't know. But I will say this. I supported this originally, notwithstanding my misgivings, because it was going to be a one-year pilot program, and we would have a much better understanding of it. I'm of the mind to support the concept proposed by Judge Wachob to extend it—option two. So I'm prepared to vote in favor of option two to essentially give another year of analysis.

>> Judge Brandlin?

>> Yes. First I wanted to say that this plan is a far better plan, more reasoned, than the previous plan, which was largely without limit. Having said that, when we put this over as a pilot project, what we were looking for was a business plan. Does this really help the branch? My concern is that if we are not adequately funded, we're going to have future contractions, particularly at the trial court level. You have an appearance issue if you have AOC employees that can telecommute and trial court employees that are being discharged because we can't pay them. Having said that, I want to make sure I'm clear here: this is not a reflection on our ADOC. There are very few judges in this state that have the skill set of Judge Jahr to be able to step into the position as he has done very well. I personally am also of the mindset that telecommuting under certain circumstances is a very beneficial program. When I served on the appellate court for about 15 months, it's used very frequently there. It works very well there. At the trial court level, obviously it doesn't work. I would support the comments of both Judge Wachob and Judge Rosenberg to put it over for another year.

>> Justice Hull?

>> Thank you, Chief. This follows on with Judge Brandlin's comment. I think there's an indication of the value of telecommuting depending on the task at hand. As Judge Brandlin points out and has been my experience in the Court of Appeal, I had a chambers attorney who for years, until he retired, telecommuted twice -- two days a week. And one of the two I have now is doing the same thing. And there was absolutely no drop-off in productivity because they were doing research and writing and things that one can do as well at home. It's unique to the appellate courts because the chambers attorney and staff attorneys work pretty much independently. I think it leads me to agree with the comment that this is a management tool that apparently -- obviously, Judge Jahr and Mr. Couch have gotten a handle on. The question I would have -- I doubt that I can expect an answer other than anecdotal. Is there any feedback at all from supervisors and such looking at the tasks, the bullet marks on page four? If there's any drop-off in production or any concern that the people who are allowed to telecommute who perform these tasks are not doing so as well from home as they could here in the building?

>> There's been no comments or reports from supervisors in that aspect to HR. If there had been, we would have addressed that and probably recommended to Judge Jahr that the regular

telecommuting be removed. The idea behind the program is you're supposed to be able to do at home as efficiently and effectively what you could normally do at work on a limited basis. In fact the opposite is true. What we get is requests to extend, to expand the telecommute program, more people and more days. That's an easy answer for HR. The answer is no. But we've had no reports that the effectiveness of regular telecommuters has been diminished at all.

>> Thank you. I think the last thought I would have in speaking as all of us do only from our own experiences, one of the values of allowing limited telecommuting as I have in my chambers and others have is I doubt that the two attorneys that I have allowed to do that on the condition that they keep up with their work, I doubt that they would have accepted my offer to work with me. So there is an aspect to it of again, a management aspect to this, that I think requires some flexibility. So that's a consideration also. Thank you.

>> Justice Hull, if I might just add to that. As everyone is aware, painfully, I know, our population in the agency, when you consider regular employees, temporary employees, contract employees, agency temps, has shifted from around 1100 two-three years ago to about 800. The tasks however have not been reduced or minimized, as a consequence of which, all directors, all managers, and all supervisors have a great deal on their plates that has to be done and has to be done timely. Quite plainly, at least logic dictates to me, that were there some drop-off in productivity, those supervisors who require the work product in a timely fashion would react vigorously if the program appeared to them to be reducing their folks' output.

>> Judge Jacobson, then Judge McCabe, then Judge O'Malley, and then Judge Wachob?

>> I'm in favor of option one. I agree with Judge Baker's comments wholeheartedly. It seems to me that this doesn't feel appropriate to me for us to be deciding this issue. This is Judge Jahr's decision. If Judge Jahr messes this up, I think he needs to answer to the council. If we have a big problem here in terms of how he is managing the A OC, I think he needs to answer for that. But I think we do need to give him space to run his organization in an appropriate way. If I had a vote, I would cast it in favor of option one.

>> Judge McCabe?

>> The topic was interesting. When sitting on the SEC, I like many of you, and Judge Jahr, had a very faint familiarity with the subject. So started learning a little bit about it. And then brushed up last year as we discussed this issue again, pulled up another online issue regarding this. It's no wonder that we're grappling with the issue because it's tied to the information age and relatively speaking compared to the agriculture age and industrial age, the information age is in its infancy. So is telecommuting. It's an issue tied directly to technology. What we're going through is similar to the private sector. Yahoo! and Best Buy have banned it, but the majority have embraced it. According to a group called Job Flex, estimate, the executive officer, that telecommuting has grown since 2012 to the present by about 118 percent in the private sector. And Yahoo! eliminated it because number 1, their view really was we're losing creativity

because people walking down the hall and standing near the water cooler were coming up with some really great ideas. And that doesn't exist when you are telecommuting. They were worried about speed and quality being affected. And therefore they banned it so they can get everybody together physically. So that's the rationale. And make no mistake, why they were doing it, I didn't read anything here that they thought that people were abusing it or anything like that. Next, I note that it was estimated that retail increased telecommuting by 85.04 percent; travel and hospitality, 68.18 percent; medical and health, 64.16 percent; insurance, 51.78 percent; bilingual sales and services, 49.43 percent. Again, that was quoted by the executive director of Flex Jobs, to give due credit. So I put that out there noting that this is an area where reasonable minds can differ simply because the industry doesn't know what the answer is yet. We're living through it. Judiciary, being government, obviously has -- is different than the private sector because we are primarily service based. So how does that fit into the mix being there for people to access the government—in particular, the judiciary? When I'm looking through the criteria, performance measures, that's the one thing I'm looking, we talk about ability to handle multiple priorities, timeliness, looking at characteristics about the employees themselves before approval. Then afterwards, talk about issues about their work. But the performance measure is a little fuzzy to me. I'm not -- last time, consistent with last time, I thought telecommuting is a good idea. It should be used in a structured way. But in a demonstrated need. I believe that the morale issues that were talked by Frank at the court, Judge Jackson at the San Francisco court, and others are legitimate concerns that we should be looking at. Maybe Judge Wachob is right. Maybe we should look at it a little longer, but I don't think it's appropriate to pull the plug on it. I think that's not an option for us. I think we should continue to look at data and continue to allow the ADOC to continue to manage. In response to comments about that this is a tool for the ADOC, the ADOC should do that, the hair on the back of my neck goes up a little simply because we're deferring to the ADOC. It's no knock on the ADOC, but ADOCs are not going to be here forever, right? Five, 10, 20, 50 years, and maybe you are. Subjectively or objectively. And it reminds me of those debates when back in the 80s in the Reagan administration, trying to change all of the rules and constitutional and amendments and as soon as he's out and the next president in, the same people arguing those things have now completely taken the exact opposite, this is terrible, we can't -- I think this is the policy board. Our job is to issue policy. I don't think we should take a pass. I think we should be here as an aid to provide some direction to the ADOC. On the other hand, I don't want to handcuff the ADOC and tell you you don't have this available. I think you should continue to do it. I hope as I have rambled on that you can tell I just don't know enough about its impact on the organization as a whole and its residuals. And whether or not we should adopt it openly and revisit it later or we should do it on a temporary basis by extending it. So with that definite maybe, thank you, Chief?

>> Judge O'Malley? Then Judge Wachob, then Mr. Bonino, then Mr. Fox.

>> I don't think that my colleague Judge Baker meant that we take a pass on it. He and I both agreed that Judge Jahr has overseen this area. It's been under a microscope for the last year. And

they've been really collecting as much data as they can—the number of employees, types of situations—and so now we are here for this recommendation. I believe that number 1 and number 2 are similar. Number 1 might have a little more short permanence to it than number 2 if the class study changes things. And you've adopted number 1 because we think number 1 is going to work at least in its present capacity and studying it for another year is not going to change the written policy that's been very thoroughly changed and gone over and viewed and examined. If the class and comp changes it, then Judge Jahr will have to bring a change to us with regard to that. If anything it's going to change the number of employees that are available. It's not going to change the policy. So I would ask that we adopt number 1. If for some reason class and comp does change it as opposed to the number of people that might be eligible or not eligible for the policy as written, then it can be changed, but I think setting this off another year is not year is not going to change much other than we are going to revisit it similarly in another year. It doesn't mean it can't be changed if something comes up that's not appropriate. This is still on the radar. We have a good ADOC who is very sensitive to this issue, in fact, was resistant when he first came on about the issue because again, trial court work does not lend itself to telecommuting. The work of the employees of the AOC, like the work of the employees and the Attorney General's office, like the work of employees who are appellate defense attorneys and so forth, it does lend itself quite well to that type of work. So we shouldn't be offended by it. It's just another way for them to do it. It's not what we've seen. It's not how we work or we have operated because we are in court every day. Our employees are at the windows every day or getting files every day. You can't do that from home. Again, nothing offensive about it. It's just different. And it is as effective. The productivity of the work has not declined as far as I can see here. I think Mr. Couch and Judge Jahr would have been very sensitive to a decline in the value of the work. I certainly haven't seen it with regard to the work that I've seen that's come from the employees of the AOC. So I would adopt number 1. Again as the ADOC, if it needs to be revised because of certain changes of things that come up, it as well as any other policy adopted by the AOC can be revisited.

>> Judge Wachob, Mr. Bonino, Mr. Fox, and then Commissioner Alexander.

>> Thanks, Chief. Thanks for encouraging a robust discussion with divergent viewpoints. If I have the opportunity, I would respectfully like to make a substitute motion which would be to adopt option number 2. In addition to the reasons I stated earlier, I think it would provide the administrative director with a more complete opportunity to analyze the impacts of the policy on the organization and to come up with a little more data and information so that the council before adopting this policy on a permanent basis would be more fully informed. That would be my substitute motion.

>> I will second substitute motion.

>> I understand that. Since there are people who have not spoken yet on either and because we've had repeat discussions, I'm going to call on Mr. Bonino, Mr. Fox, and then Commissioner Alexander and then Judge Nadler. By then almost everyone has spoken.

>> [Laughter]

>> Then I will call for the substitute motion unless there is a substitute substitute.

>> [Laughter]

>> Thank you, Chief.

>> I haven't spoken, Chief.

>> [Laughter]

>> I'll tell the jokes here.

>> [Laughter]

>> Telecommuting rankles me but so does the fact that lawyers don't use books anymore and lawyers show up in the office without wearing ties. It happens. And things have changed unfortunately. As many of you have learned this morning, the traffic in the Bay Area—I'm sure in the Sacramento area and in Los Angeles—has become a true nightmare. As a result, I know the customer service people unfortunately have to be at their jobs, but everyone else pretty much is telecommuting when and if they can, including some of the people around this table as I understand it, including me. So it's something as long as there are reasonable rules—Judge Jahr has come up with a number of reasonable rules. As long as we don't have a repeat of some of the extreme situations which would be ruled out by the reasonable rules that Judge Jahr has come up with that caused a lot of the political and publicity hubbub that we had a year ago, this is really an idea whose time has come. And I think the Judicial Council should accept option one.

>> Thank you, Mr. Bonino. Mr. Fox.

>> Thank you, Chief. I will be voting in opposition to the substitute motion and in support of the original motion. I would suggest however that we consider requiring an annual report from the ADOC. There's no further reason I don't think to maintain a pilot project. I think it has been shown to work. I think the report reflects that the ADOC has imposed limits and restrictions. It's working. There is a high level of productivity with a lesser number of staff. And so I would suggest that we expect an annual report on the continued success. If we ultimately conclude that it is no longer working, we modify the policy.

>> I second that substitute substitute.

>> Judge Baker's motion?

>> With an annual update.

>> This is an evolving and fluid discussion.

>> Can the original maker of the motion adopt?

>> I'm going to think out loud before the parliamentarian speaks. Yes, that's one option. It could also be construed as a substitute motion. That's a substitute times two.

>> If I may, Chief, what was just suggested would either be considered an amendment to the original motion, or a better approach would be if the maker of the original motion and the second simply adopt that as a friendly amendment. Then we don't have a lot of motions on the floor.

>> I would accept that.

>> So the original motion has been changed.

>> Right. Still, however, the substitute motion will be handled first. I haven't yet heard from Commissioner Alexander and Judge Nadler and Justice Miller is starting to smile.

>> I don't want to repeat what everybody else has said. If I could vote, I would vote for option one. I have had contact with the AOC in only a limited capacity with CFCC and CJER. And both have significant amount of staff that can do a lot of their work not at the office. And some of them and some of the management people have said to me that it has reduced productivity with having to be in the office because with all the report writing that many members of the AOC have to do -- I think we do 100 something reports to the Legislature every year, that they can do that much more efficiently at home when they are not distracted. That's one thing. The other thing is there are some jobs at the trial court that could be telecommuted. We have an IT center. They happen to come in and sit at a desk at an IT center. When I call and my computer is broken down, they don't come see me anymore. However they do it, they take control of my computer and fix it long distance and I never see that person. That person could do that from anywhere. We have researchers, people that prep calendars that spend a day or two prepping a week's worth of calendar that can do that and then report back. We have probate examiner's that are looking at documents all on the Internet now and can do that and send the report to their judge. So there are jobs at the trial courts that could be telecommuted and be done as effectively. They just aren't the face-to-face service jobs, and the face-to-face service jobs at the AOC are not being telecommuted either.

>> Judge Nadler?

>> Without taking too much time and restating what's been stated, I'd like to first of all agree that option one seems most reasonable to me. And I do appreciate that looking at it at the end of the year would be a good idea. I think there's a very good reason why businesses have been adopting a policy of remote work assignments. I think it wouldn't happen in the private sector if

it did not promote increased productivity. And I think the same is true for the courts. Maybe not for those that work at the counter, maybe not for those that face the public on a daily basis. But we have so many people that work otherwise. And I'd like to express my confidence in Judge Jahr and his staff to act reasonably and appropriately in allowing that to occur.

>> Thank you, Judge Nadler. Justice Miller? Then Judge De Alba, he promises.

>> I apologize but I did want to say that I personally believe in telecommuting. I think Judge Jahr and Ken Couch and your staff have done an excellent job in crafting the policy. I think it works. I think it's been effective. And I feel like we're all now -- how many motions we have substitute or substitute motions are saying the same thing. I do believe that it's important. I'm interested to know what the actual motion is so that I can decide whether to vote on it. I do believe we should have an annual report, whether it is called a pilot program or not, an annual report. I do think it's important because of the class and comp study that we have the opportunity to look at what that class and comp study says and for Judge Jahr and Ken Couch to report back to us as to how it impacts the Judicial Council staff agency in its entirety and the telecommute policy. And I agree with Judge McCabe too that I think in our annual report it would be nice to add some kind of performance evaluation, for you to certify to us in some way that it is working and that it is effective and that the managers and supervisors are finding that they are as productive or more productive and for us to be able to see that and get our hands around it. So if I've said what everyone else has said and that is the same motion, I'm in support of that.

>> Judge De Alba.

>> Thank you, Chief. My comment is a little different. It doesn't go to the policy. I want to compliment Justice Miller and my colleagues on E&P for agreeing to put this agenda item on the discussion calendar today so that we can have this robust discussion publicly. Thank you.

>> Thank you. Well said. And relevant before we take the substitute motion first. The substitute motion that's been made and seconded recommends that we adopt recommendation number 2, which is extend the current pilot telecommute program an additional year. We will do a roll call vote on that. And I ask Judge Jahr to start the roll call.

>> Can I ask a question? What is the first -- I need to know --

>> The main motion is option one. [Indiscernible -- multiple speakers] I construed the term performance evaluation as an annual review. And if you like, I'll read the language I have of what I would perceive to be the first motion, as amended. That would be to approve the pilot program has a regular telecommute program with the current additional controls for approving, monitoring, and rescinding participation and require the Administrative Director to provide an annual performance evaluation of the program..

>> Please proceed with the roll call vote on the substitute motion, which is recommendation 2.

>> All right. The record should reflect—correct me if I’m in error—as to voting members of council, Justice Baxter, Assembly Member Bloom, Ms. Davis, and Senator Evans are absent? Hearing no correction, I will call the roll of voting members at this time. Justice Ashmann-Gerst?

>> No.

>> Judge Baker?

>> No.

>> Mr. Bonino? No. Judge Brandlin? Yes. Judge De Alba? No. Judge Elias? No. Mr. Fox? No. Justice Hull? No. Judge Jackson? No. Justice Miller? No. Judge O’Malley? No. Mr. Robinson? Mr. Robinson is absent for the vote. Judge Rosenberg? Yes. Judge Rubin? No. Judge Stout? No.

>> Is Gary a voting member?

>> I beg your pardon. We didn’t update. Forgive me. Judge Nadler?

>> It’s never too late, and No. [Laughter]

>> All right, then. The votes are two yes -- three yes -- voting members -- voting members.

>> The maker of the motion was a nonvoting member. 13-2.

>> Correct. The substitute motion is defeated. Chief, did you wish to proceed?

>> Yes, we’ll do a roll call vote on the amended motion number 1 as amended. The original first motion -- not original --

>> All right. On option one as amended, Judge Nadler? Yes.

>> [Laughter]

>> Seemed only fair. Justice Ashmann-Gerst? Yes. Judge Baker? Yes. Mr. Bonino? Yes. Judge Brandlin? No. Judge De Alba? Yes. Judge Elias? Yes. Mr. Fox? Yes. Justice Hull? Yes. Judge Jackson? Yes. Justice Miller? Yes. Judge O’Malley? Yes. Judge Rosenberg? Yes. Judge Rubin? Yes. Judge Stout? Yes. Fourteen yes votes, one no vote. As to item N, motion to support option one as amended carries. Thank you, Chief.

>> Thank you, Judge Jahr. We will stand in recess for 15 minutes or so until 10:30 and then start introduction to realignment educational agenda. Thank you.

>> [Recess until 10:30 Pacific].

>> Everyone, take a seat so we can get started on item G, an educational agenda. I think before we introduce this very exciting program, I want to thank ahead of time, all of the presenters. As I said before, I think you will be mobbed before you leave. So I wanted to make sure that you

know how much I greatly appreciate you lending your expertise and presenting at this important educational session. I want to say first some introductory remarks about criminal justice realignment and why we find ourselves here today. As you know, this represents one of the most fundamental shifts in California's criminal justice policy in recent years. As we know, every element of local justice systems has been impacted. Judges are implementing a complex new sentencing framework, and our courts have been charged with significant new responsibilities. At our December Judicial Council meeting, several members expressed an interest in having an educational presentation on criminal justice realignment—the process, the issues, and the real-life experiences that are happening in the courts and on the streets. Many courts are spearheading innovative county level programs that have been tailored to meet local needs. They are also tailored to reduce recidivism, protect public safety, all of those without compromising judicial discretion or integrity. As we heard at our council meeting, these changes have not come easily. And some judges are discouraged by how some elements of realignment are unfolding, particularly the effect on jail overcrowding. Judges have reported that defendants appearing before them with new charges before they should have been released for custody on their original sentence. We need to support our local and state partners as they tackle these issues. When developing positions on legislation and budget proposals, we need to put proposals in the context of broader realignment goals. As we think about the impact of proposals on the branch, we must also think about improving public safety and offender outcomes. We need to support programs and practices known to reduce recidivism because all of us want fewer victims. Historically, the courts have been leaders in innovation. Establishing collaborative court models. Many of us here at council and in the audience have created and presided over these collaborative courts, including our Administrative Director when he was a judge. These courts have at their center the very solutions that can make realignment a success. The Legislature is now looking to expand these models, these collaborative courts. And our branch's experience with collaborative courts can assist in appropriately utilizing these courts to deliver appropriate realignment outcomes. Today we'll have a comprehensive series of panels on criminal justice realignment providing a broad overview as well as practical implementation experiences from courts and justice system partners. I thank all the panelists for being here. We have five distinct presentations on this educational item. There are no materials and no action is required. We welcome Judge Couzens and Presiding Justice Bigelow, who helped the courts immensely with training and education on criminal realignment to begin here today, this presentation with an introduction and background on criminal justice realignment. Welcome.

>> Thank you, Chief Justice and members of the council. It's my pleasure to be here to give you this update on what's happened with realignment in the courts over the last two years. I want to introduce you to the packet that we have given you if you had an opportunity to look at it, you'll see a brief PowerPoint for you. We have an overview and fact sheet with a summary of the very basics of justice realignment. You can read that to the kids and they'd understand that. And we have also a comprehensive FAQ packet that has the work over the years to answer most of the nitty-gritty legal questions. There's also some statistics that will tell you how things are

happening in the courts and so forth. CPOC see has an issue brief and then there's some information on the Ventura model that you'll hear about a little later on. If you have questions, we'd be happy to try to respond to them. I know you are not reticent or shy about that, so feel free to jump in as you would like. We thought it might be helpful at this juncture -- since many of you are not from the criminal arena -- to have just a very brief primer on what realignment did and how it accomplished it. As you know, there was a Supreme Court decision that said California had to dump a bunch of prisoners out of custody or the federal judges would do that for us. In response, realignment was created. Under the traditional sentencing process, if there was a conviction, a court could put a person on probation. If there was time to be served, it would be served in jail. Or you could send them directly to state prison, not pass go, not get \$200, and you would serve the time in state prison. After the state prison, everybody would serve a period of parole, usually no less than about three years. That was supervised by the parole authorities. This is how they accomplished the population shift. They divided the process into two main segments. There's a new process called 1170H commitment, where sentences go to jail. It works pretty much the same as the old system but obviously you can see a dramatic result where people are housed. With a conviction you can put a person on probation with jail time or make a direct commitment to jail under section 1170H, and Trish will talk about what that means. The court has the opportunity when the person goes to jail to decide between two systems. One is to give a straight term. In that situation the person will serve time in jail and complete the sentence and be out. And the other option is to split that sentence, part in custody and part on supervision. If there's any jail time, it would be locally. They made the decision not to have parole after that. Once that sentence is served, the person walks out with no supervision at all. The other track was for crimes that were for whatever reason reserved for state prison. And I will talk about that a little bit. With a conviction, many are probation eligible with jail commitments. Or you can commit directly to the state prison. Then when the person is ready to get out, the system divides two phases. The less serious offenders are put on what's called PRCS, or postrelease community supervision, where the person is supervised by probation; if there are violations, they serve time in jail. The other group, the more serious group, remains on parole. As under the old system, they are supervised by parole. If there are violations, under most circumstances, the time is served in county jail. In a few instances, they are referred back to prison. You can see how much we see now jail as a part of the component and local probation services that did not exist previously. That sets up these concerns that you are going to hear about today. I'm going to ask Trish to explain the basic sentencing process.

>> Chief, honorable members of the Council, to look at realignment, I think the backdrop would be to say that it appears that the Governor's office went through all of our statutes and looked at everything that provides for a criminal penalty, not just in the Penal Code but also in the Welfare and Institutions Code, the Business and Professions Codes, in the Fish and Game Code, and reviewed all of the sentences and placed them into basically two piles, those the vast majority of which will now go to county jail, and those which will retain a state prison sentence. And while there are those two piles, I think it's best to understand how realignment works, to think of it in

three groups, as is on the PowerPoint there. The first group is the vast majority of crimes as I indicated, and those are the *wobblers*, crimes that have been realigned from state prison to county jail. They are comprised largely of crimes that we are familiar with in the Penal Code where the designated penalty was not stated, it was simply county jail or to state prison and we default into a 16-month, two-year, or three-year sentence. In addition, what's been added also as those crimes that will head to county jail instead of state prison are a great number of crimes, things like second degree burglary, auto theft, vast majority of drug crimes, and property offenses. Those are all going to now -- those persons will be housed in county jail. And their terms remain the same. They are retaining approximately 80 crimes, which still go to state prison. These are the more serious crimes that still go there. And the third group is an exclusion. Those persons who are now to go to county jail under realignment, but will, because of their background or the crime they committed instead be housed in state prison even though they would normally now be realigned to county jail. Those exclusions are for persons who have currently or previously been convicted of a serious or violent crime; those who are required to register as sex offenders; in addition, those who have been convicted of an enhancement under 18611 for aggravated theft in amount over \$100,000. So I think if you keep that purview in mind of where everything is going, it's helpful to an understanding of realignment. In making these changes, it's nice to know that there are some things that haven't changed, things judges can hold onto and say, I know those byzantine rules that apply to state prison and computing sentences. Some of those remain. Some have changed. But let's talk about what hasn't changed. Realignment does not change eligibility for probation. It's good to keep in mind that in fact realignment does not even come into effect until the trial judge has made a decision to deny probation. So in every instance, the court still may grant probation; after a judge decides that, that's when realignment comes into effect. Alternative sentencings are still available, deferred entry of judgment (DEJ), diversion, I should say. Another thing we can hold onto is the fact that computation of these crimes remains the same. Under 1170.1 and 1170, rules with regards to concurrent and consecutive sentencing, the addition of both conduct and status enhancement remain the same. We can have judges, something they can hold onto that's familiar to them in that area. There is no change in the custody terms. To give you an idea of the population that is housed in county jail now, the crimes they can be very lengthy. The longest one we have found is a violation of Welfare and Institution Code, section 13387, which is discharging certain pollutants, which can result in a in county jail of 10, 20, and 30 years. It's a broad array of those housed there. Things that have changed is the place where their housed, but in addition as Richard discussed, the fact there is no parole, no supervision after the sentence is served. Using realignment, there are certain sentencing choices that a judge makes to determine how they should serve their sentence. The sentencing choice first is one that we are familiar with, one that we normally use. It is computed in the traditional manner, except that the service is in county jail. It is subject to really release by the sheriff when there's overcrowding problems. A defendant incarcerated pursuant to 1170H crime will receive halftime credit. Again, there's no supervision when they are released. The newer model that is the subject of many rules,

discussions, legislative proposals, and has been something we are working with in the trial courts is what's called a split sentence or blended sentence. I think the best way to envision this is to think of a sentenced prisoner, someone going to county jail, serves part of the time traditionally in custody and the other half of that time on what's called mandatory supervision. It looks like probation, talks like probation, and feels like probation, but it is mandatory. It's mandatory. I'm going to talk about that. Again, the term is computed in the traditional manner. We hang on to that. The custody period, the first period where the person is incarcerated, the defendant receives halftime credit. The concluding portion of that term—so a person would be sentenced and you compute the aggregate term and indicate, I would like one year of that to be served in county jail, the remaining term to be served on mandatory supervision. That is discretionary choice by the court to determine whether or not mandatory supervision is appropriate. It is up to the discretion of the court to make that choice, to determine the length of that period that should be served on mandatory supervision and the terms that will be served. At this point, a defendant gets only actual credits when they are on a mandatory supervision period. If there is a violation, it is remanded – the defendant can be remanded to serve remaining time. It's called mandatory supervision. And here is where it differs from probation. When a defendant is placed on probation, we commonly asked and are required to ask, do you agree to accept the terms and conditions of probation? With mandatory supervision, we don't have to ask that. It is mandatory. They must do it. During that period of time, -- yes, sir?

>> I don't think that's accurate. I think on mandatory supervision, we ask them because they can refuse it and they just serve their time.

>> I'm sorry. That's not true. It's mandatory. And that's why it's called that. You must serve the time.

>> Dave, you are wrong.

>> [Laughter]

>> Leave it to Richard to say that.

>> Overruled.

>> If they refuse mandatory supervision, they don't -- they get straight sentence?

>> [Indiscernible -- multiple speakers] No.

>> Well, in our court we have them sign an agreement.

>> We have 58 different -- [Indiscernible -- low volume] each one does it their own way.

>> Your point has been made. I think the point has been made. Given our time frame, I'm going to ask Justice Bigelow to please continue.

>> There's no supervision when it's completed. Thank you so much for your time on this aspect.

>> [Laughter]

>> As indicated, we've also changed some of the processes for dealing with people when they come out of prison. The first is PRCS that I mentioned earlier, supervised by probation. If the violation occurs, probation is supposed to intervene at some informal levels by intermediate sanctions including flash incarceration where the probation officer can order up to 10 days in custody. They serve that in jail. If that doesn't work, they can bring a petition to the court and we can impose up to six months for each violation but they do get halftime credit. We cannot send any of these people back to prison unless they commit a new crime that warrants state prison. The more serious offenders are back on parole, it works very much the same except this is supervised by the parole authorities but the court shares the responsibility in adjudicating the violations. We have shared responsibilities. Parole has this duty to impose intermediate sanctions including flash incarceration. Again if that doesn't work, the court can impose custody of up to six months. In most situations, we cannot send a person back to prison. There is a very limited group we can, for murder or for some aggravated sex crimes we can do that. Otherwise, they stay with us. There's a huge shift to the population, not only physically but in supervision to the counties. We would like to turn to the panels to talk about the effect of this from a state perspective in terms of the agencies that are going to speak to you but they will address local concerns. I would like the first panel to come up please. I would like to introduce to you the group that will talk about what's happening locally, about the local perspectives. After that we will have the Judicial Council advisory committees talk about what's going on there. We have some wonderful programs that we want to brief you on in terms of what courts are doing and then we will wrap up. So our first group is Linda Penner, chair of the Board of State and Community Corrections; Elizabeth Howard Espinoza, the legislative advocate for CSAC; Nick Warner, policy director for the State Sheriffs Association; and Karen Pank, executive director of CPOC. So we'll start with Linda.

>> May I remain seated, your honor? Thank you. Judge Couzens asked me to be superficial in my remarks.

>> [Laughter]

>> And because that is personally a gift of mine, I shall proceed in that fashion. I actually am a wobbler. I am a state employee at this juncture. I came to the state dragging my heels down Highway 99 after I retired from my job as the chief probation officer in Fresno County. When I retired, the Governor who was heavily invested in realignment and has stayed invested in realignment asked me to come to work to represent certainly the state's efforts on realignment but then to keep the locals in the mind of the state while I was in Sacramento. Since that time, I wasn't interested in moving to Sacramento but because the Governor is a better negotiations an I, I took the job. I'm currently residing in Sacramento a fair amount of the time. I did that because I

was the president of Chief Probation Officers at the time realignment was going into play. And I felt strongly about certainly the dilemma we were faced with in terms of the three-judge panel and the reduction of the population in the prison system. When I was a probation officer, felt that agenda needed to be moved and had to be done strategically and with a great deal of input from the stakeholders. My rationale from coming to the state is because I think that was still important to maintain. I say all that's not because I want to talk about myself a lot, but because I think it's important for the courts to understand that the genesis of realignment was one that certainly was a state shift and a state law and policy changes at the state level, but it involved these stakeholders all through the process. It did it prealignment and it has continued to do that postalignment. I tell you that because the people you see sitting at this dais right now our people that continue to meet monthly, sometimes bimonthly, to talk about the issues that we face. Reckoning with the fact that realignment is not a perfect law -- no one may speak at this point -- that it has matters that need to be addressed, that it has policies that need to be tweaked and enhanced. But we're trying to do that in a very strategic manner—that is, not to begin to take apart a law before we see that the rollout has various impacts. So this year in the budget, we've tackled three specific items. I want to raise those. One is the long-term sentences. I heard some reference to that in the previous presentation. Certainly we all know county jails -- it is the state of California has an infrastructure that is very old in terms of their county jails. And it is not -- it was not built for long-term sentences. This budget in January, the Governor proposed an additional \$500 million in what we call 1022 money, money that is jail space that has programming associated with it. So now the state will have invested should this go forward \$1 billion in program space in county jails. I can tell you the sheriffs in the state of California—Nick Warner will address this—are incredibly interested in this piece of policy. Beyond that, you will see an additional caveat wherein there is the presumption of the split that is recommended. And we have watched the rollout of realignment and feel strongly that the split sentence is imperative. Certainly because I'm from the probation discipline, I feel strongly about the fact that there should be a period of supervision. There should be a period where we have an ability to enhance treatment and whatever efforts need to be made by individuals in the community. Beyond that I think there are some public safety issues that are addressed by the split sentence. The work I've done since I've been in Sacramento has a lot to do with work outside of Sacramento. One-on-one, the Governor and myself and often Diane Cummins, have visited county after county. Those are conversations that occur in a closed room where there can be frank conversation and discussion about the needs of the realignment-impacted departments and programs. And we're learning bit by bit what needs to be done. I'm certainly aware of the need to change. But I'm pleased with the fact that we haven't jumped the gun and began to take it apart piece by piece. With that, I think I should lend -- I've only got five or six minutes to be superficial. I didn't get to say much.

>> [Laughter]

>> I'm going to give up some of my time and move on.

>> Let's get the CSAC perspective.

>> I will attempt to be very profound with you today. Thank you for having me, Chief Justice and honorable members of the council and Judge Jahr. We're happy to be here. CSAC, the Judicial Council, and the AOC have a long history of partnership. I think that is a theme you will hear throughout our discussion today, that collaboration and partnership are what it's going to take to make realignment work not only from a statewide policy perspective but at the local level as well. Very briefly, CSAC is the Association of Counties. We represent the 58 County Boards of Supervisors. You likely have relationships with your Board of Supervisors at the local level. And obvious as it may sound, our primary objective with realignment is to make sure counties have the tools and the resources that they need to be successful with the implementation of AB 109 over the long term. We are moving from the triage phase and going towards what do we need for the long term? Where we have managed successfully, counties are resilient, government in general is resilient, and we have managed thus far with what represented a significant wave of responsibility coming into county jurisdiction. And now we are able to look up and say, we've made it this far but what do we need over the long term? As Linda said, we are constantly evaluating what we have now and what we might need in the future to make sure we're successful. I wanted to talk to you about three specific things that we are working on. One of them often gets a lot of attention and has to do with the allocation of funds. I will spend a few minutes on this—we could talk about this all day but I want you to understand what CSAC's role is when it comes to financing of realignment. There are several aspects to it. Department of Finance when they were putting together their estimates about workload and what they thought they could afford to give counties to carry out these very significant reforms at the local level established the big pop, so they defined what comes to counties on an annual basis. CSAC, our association, has a specific role in -- I know you all wish you had this responsibility -- deciding how to divide that money up among 58 counties. Very hard work. We have a group of nine county administrative officers that are charged with doing that work. They are currently working on a new formula that will go into effect in the coming fiscal year. Trying to make sure that counties who started realignment from very different places, there was -- you understand this from the trial court level, there is some counties and courts are differently resourced or historically have been differently resourced. I know you've grappled with this yourselves as a branch, but how do you make sure that you can get money out to the 58 counties to ensure they can be successful over the long term? We are currently working on that. That will continue to be a focus. Once the money gets out to the counties, one of the premises of realignment is we are taking on a responsibility and we are being given resources to do that. Once it gets to the county level, there is a multi-agency process, chaired by the probation chief that dates back to SB 678 that the courts understand, are involved in, and are supportive of. Those decisions are made locally and we think that's how it should work. We don't sit in judgment in terms of how counties make these decisions. We trust the responsible officials who understand the needs and gaps and service capacity to make those decisions locally. I wanted to spend a few minutes talking about that. Then the two other pieces are really much bigger picture and perhaps even

harder than doing the allocation, providing the leadership and training to support county capacity over the long term. We're very grateful that the administration and Legislature saw fit to provide some additional resources outside of the programmatic money to fund training. I think they recognize realignment represents a very significant -- the biggest criminal justice reform in our generation. But it's true. So they understood that you have to provide training to not only see the change but support the change, leadership change, the system changes over the long-term. So we've worked collaboratively—our three associations on this side of the table—to put together statewide conferences, one and two-day trainings that many of your colleagues at the local level from the bench have participated in— as people in the audience, but also speakers. There's a lot we can learn from each other and we wanted to acknowledge and thank you for the leadership from the local benches in helping to talk about what are the best practices, what's working, what's not working, where do we need to change our tack? So I wanted to appreciate that. But we're working on a continuous basis to deliver good training and education to support this over the long term. And then finally the CSAC role is a little bit different than the subject-matter roles, which are extraordinarily important but we are trying to look at realignment from the big picture and seeing what door are these populations coming in? Are there better ways to leverage not only realignment resources but other resources? If we are touching a family on the child welfare side or on the foster care side or on some other side, is there a way for us to make sure we're wrapping the family up in other resources that might be available to us? An example of where we spend a lot of time is making sure that counties understand not only the opportunities but what they need to do to benefit from the opportunities under the Affordable Care Act. Lots and lots of people who previously did not have health coverage are eligible as of January 1. We have to put systems in place at the local level to make sure we can benefit from that because we see that as a building block, a way to provide stability to families that may have -- be involved in the criminal justice system. Part of the way you can help that community reintegration and success over the long-term. So those are the things I wanted to hit on. I know my colleagues have lots of other good things to say.

>> Nick Warner, your association folks house all these folks. What's your take on this?

>> I want to say thank you to the Chief and your colleagues for having me here. I speak professionally to esteemed bodies of the Legislature and beyond. I'd be lying if I said I wasn't a little bit nervous and intimidated but also really, really honored to be here. It's a high point in my career. I appreciate the invitation. How did we get here from a sheriff's perspective? How did we get everybody from a state perspective? Realignment is rooted in overcrowding. It's rooted in decades of underattention to facilities and to proper space in a growing and vibrant state. Rooted in budgetary meltdown, epic proportions at the state level. Also in public policy, which is that locals could probably do a better job in the state and a lot of these cases. So that's the root of how we got here. It's put tremendous strain on the jail system. Tremendous strain. It shouldn't be underattended to by this body although at times, I think that it is unquestionably underattended to in the Legislature. It's put tremendous strain on the county jail system. I'll give you some

quantifiables to go with that. To Chief Penner's point, the administration continues to take extraordinary care in the way they are working with locals, not just visits but the manner and style of listening, frequency of meetings, the action, legislation that comes from this Governor, this is a really intricate, important sea change. I'm telling you as if you don't know, but it is acute in County Sheriff land, it's acute in County land. The administration is taking it seriously. That's one of the things that's key in the executive branch is to have a good partner who understands not just at the elected level but at the staff level but this is a big deal for everybody. This has got to go well. And we are not done. We get asked questions in the media and the Legislature: Did realignment work? I would suggest to you that that's not a savvy question. That's an ill-informed question. Somewhere in between here and there, people that say it's been a dismal failure are patently wrong. People that say it's been a smashing success our in my humble opinion wrong. It's somewhere in between here and there. We're dedicated as evidenced by being here a lot of the work that goes in from the executive and judicial branch, dedicated to making it work better. This may be the wrong place to be sarcastic but particularly in a particularly difficult moment, one of the sheriffs pulled me aside and said, Nick, what are we going to do, screw it up worse than the state?

>> [Laughter]

>>> We think we can do this, but we have to be properly resourced in order to do this. So jail facilities were and still are by and large ill-equipped to deal with a number and types of inmates that we are receiving. Let me give you some facts. This is from the VSEC's data. Realignment has increased jail population by 11,000 inmates, which puts us 11,500 over the rated capacity statewide. We are releasing -- from the first half of 2013 -- 13,000 inmates per month early. We are essentially making decisions on a daily basis which inmates to release early. Releasing the best of the worst. We also came into this with varying degrees of capacity, both literally and academically. We have some counties that were in advance of this curve and some that were not. We had some counties that were experiencing really dramatic population increases in difficult positions before realignment hit, before we agreed to the concept of realignment. Counties, when you talk about the county plight, there isn't one answer. There's a lot of different and varying degrees to which counties have the capacity to handle this. Thirty counties were under a court imposed population caps. Essentially one in, one out. That's a really difficult dynamic, as you might imagine in year, just past year two. To the note that Linda Petter made, and Elizabeth touched on, the SB 1022 funding, which is essentially jail funding, it's critically important but also not been processed correctly in the state capital. That's part of our charge, part of our ongoing education process. We don't want to simply warehouse people. We get the point. I played the sheriffs at a roundtable meeting. Six of you said the term *evidence-based programming*. All of you are talking about mental health. The vast majority have mentioned treatment, education, and rehabilitation, some form or fashion. I couldn't be any more proud of the sheriffs of the state of California but they don't all have the physical capacity to do the things we want to do. We have jail facilities up and down the state, some that are great. I'm not saying

I'd want to live there, but they're great. We have vocational educational space. We have yard space, We have programs and health days where we can treat people's symptoms. But we have jails in this state -- this is a human being issue, not -- this is not a sheriff issue. This is a human being issue where we have no ambient light, no treatment space, no classroom space, nowhere to treat people -- we are committed to doing the things that Legislature or Governor envision us doing but we are not there and in a lot of counties, not close yet. We are arguing for an additional \$500 million on top of \$500 million last year to improve conditions in these jails so we can do the things that we want to do. Some additional notes I think are interesting and problematic, we recently -- almost completed a survey. You know how many surveys you get from the AOC. The sheriffs get that many from state sheriffs associations. We have 40 counties that have reported and we have just under 2,000 inmates that have been sentenced so far under realignment, just under 2,000 inmates that have been sentenced to between 5 and 10 years in county jail. The average length of stay was approximately 66 days prior to realignment. We have about 2,000 that have been sentenced to between 5 and 10 years. My analogy is Nick, did you like your stay at the Ramada Inn? It was great. Would you like to stay there for five years? No. We are not equipped to handle these people for this long at this period of time. And that's what this money is so critically important for. We have just under 200 inmates that have been sentenced to more than 10 years in county jail. Sentenced to more than 10 years in county jail. The folks in this room understand how problematic that is, especially given our current state. I won't go too much further into that. Challenges and needs: mental health care, these create ADA (Americans with Disabilities Act) issues, so we're desperately trying to modernize our facilities to decrease liability and also to the human condition to do a better job with people that are behind bars who as we know are going to get out. We'd like to send them out in a better state than we got them. I think sheriffs are managing the crisis pretty well. Make no mistake, in a lot of counties, it is a crisis. Not unmanageable. I'd say the executive acumen of the men and women running sheriff's departments these days is really high. They're very committed. Are they having trouble? Yes. Does it come out in ways that they and we and the Governor wish it didn't? Yeah, but they're dedicated to this. We supported and continue to support the concept of realignment. But to be real with you and the Legislature, it's difficult. There are public safety implications now and ongoing. With that, I will turn it over to—

>> Karen, you're getting the brunt of the supervision responsibilities. How has your agency responded to that?

>> Thank you, Judge Couzens, Chief, and honorable members for also inviting me here today. The probation chiefs, who I represent, speak highly of many of you who they get to work with each day and they appreciate having the opportunity to share on a global perspective what they are experiencing with realignment and hopefully engage in a little bit of discussion related to that. I agreed to go last because you told me that that way no one could rebut what I had to say, correct? Isn't that how that works? Maybe not so much but we're going to try that. So we were asked to talk a little bit about why did CPOC as an organization support realignment? We did

end up coming out in support of realignment at the time. And looking at now several years into it, there are a lot of challenges and opportunities. That is in part why we considered it at the time. As it was already outlined, the alternative was untenable from a public safety perspective. So that made the choice a little bit easier perhaps. We also wanted to look at something that the Chief Justice mentioned in her opening comments, improving outcomes. It sounds academic on paper, but what that means is stopping the revolving door. With the revolving door comes through another victim. And we saw this in our everyday work, you see it in your everyday work and it was something very important—things we have been working on from a policy perspective for years leading up to realignment. So there were some potential opportunities to try to improve the system and, frankly, look at redistributing resources, scarce resources, to an area within the system that we thought had been grossly underfunded for many years. And so that's one of the reasons why we thought some of the things related to realignment, some of those changes, could potentially have better outcomes for California. And it started prior to realignment. I think it was already mentioned by an earlier speaker the support of SB 678. So, in a way, I feel like probation had a little bit of a head start with what became this tidal wave of realignment. And I would say just a little bit of a head start because those of you who are familiar with that, it was a small amount of money but we made a big impact with it. And it was an opportunity to start doing things differently on our probation caseloads with offenders that were coming to us anyway and trying to put evidence-based practices to work. In doing so, in 2010, before realignment, we were able to drop probation failures by 23 percent. Again, sounds very academic but those probation failures usually result in victims. And in an impact to our state at a very costly resource, going back to the scarce resources, they would be going back to state prison. And in many cases that's what's needed. And we certainly wouldn't want stop that but we know there's not enough room going back to the overcrowding. How do we efficiently protect our communities and change these outcomes and use what we do have with the folks who need to be in those incarcerated settings? All of those things were happening prior to realignment. I think when you really look in some of the wording of realignment in the statutes, you will see it's very similar to what we wrote related to 678, the types of the hopes, dreams of what we would like to accomplish, but we were also asked to talk about is it working? If it is or certain parts of it working? I think that's the difficulty, when you take it from the academic and go into the practical world, how is this rolling out? It's different in 58 different counties, in all the different courtrooms even. I think you can go down to that level. Not even just the differences in the counties but differences in how you are dealing with what you have available to you. We're seeing some successes. We're seeing improved outcomes with very dedicated caseloads that probation is working with in many cases. Most of the time it's working because of collaboration. And I think that was also mentioned earlier. It's so key and important to the process. But what does that mean? It manifests as the community corrections partnership, CCP, charged with trying to develop some of the policies that we would put into place locally to deal with realignment. And I would make a pitch and encourage many of you probably are involved in some level with that local planning process, whether formally or informally, but the court's role is so significant to that because if it's not

somehow worked into how we are addressing realignment in each of our counties, that bifurcation creates just a different type of revolving door. What I mean by that is if you've listened to the previous speakers, you know we already have overcrowding at the local level as you are familiar with, in our bricks and mortar, but also overcrowded with human infrastructure. Our caseloads on the probation side are very high. And in many counties, higher than others. So you need to think through, how is realignment going to be impacting that? So if you look at some of the flowcharts that you had gone over, Judge Couzens, earlier, and you see the decisions you are able to make and that come before you in your courtroom. If those are limited to the way you may have done things before realignment, you make the sentence and say, this person was previously going to state prison for X amount of time, now they will serve their time in county jail, and think that that is it. I think you probably all at some point in time had some frustration with that because it doesn't end there. Many times they will not spend that whole amount of time in county jail. Realignment has given the sheriffs some tools that they need to use to manage that population. The collaboration that takes place hopefully in the counties within the CCP and other opportunities will also look at, how are we going to protect public safety if we are not going to necessarily have them for the whole amount of time in county jail? Those are things that I think would be very important to the court system to understand as you look at the people coming before you. We would see it working better I would say in counties where that collaboration exists. Collaboration with the courts is very important. So again, where are the problems? Where there isn't those kinds of communication, collaboration, it is difficult. Obviously the overcrowding issue, the caseloads, high caseloads are problematic. And it is true, you hear from the news and you probably see it every day in the courts that some of these folks coming through are maybe a little more hardened and have more significant needs than what we saw with felony probation. For the most part, there is a playbook that I think probation is familiar enough with that with the appropriate resources -- if we build out those tools, we'll be able to address some of those things.

>> I think we need to move into our next area. Are there any questions of this group? Yes?

>> This was for Mr. Warner and Ms. Penner. You talked about the \$1 billion and 1022 for program space. So is that reconfiguring current jails, building new ones, developing out-of-custody supervision programs like electronic home detention? Other ways for people to serve their sentence? What exactly are examples of what *program space* is?

>> I'm glad you asked that. I'd like an opportunity to expand on that. What we know -- visiting the jails that are currently in play, many of the jails -- I was in LA two weeks ago -- have no room to do anything that resembles a place where you could have an educational program or have a treatment program or even a group program. We were in the special needs portion of the jail. It was 240 individuals on triple stacked bunks that -- I didn't see much room to do much there that would enhance programming. So all of the things that you mentioned could be part of a 1022 sort of award. What we saw is programs that were in custody, that would then bridge to out of custody where you might partner with your probation department and move somebody that's

in a treatment or educational program systematically through the system and out the door for a soft landing, lack of a better way to say it. There were 36 counties that applied. So you saw a little bit of everything when you did that. There has been a discussion talking about are you just building new beds or building infrastructure or replacement beds? We saw a little bit of everything. Some of that is just smart money, the way I see it. For instance, harkening from Fresno, they didn't have a footprint for another facility in Fresno to build a jail. So they are gutting one and reinventing the space within. Other counties had a master plan that will allow them to go out and have a footprint for a jail where they are not going to have NIMBY issues and the kinds of problems you have putting up a jail. They will be able to build a facility to program specifically. We've seen a lot of great program facilities. Stanislaus County has one to beat the band. There are a number of those that are ongoing.

>> Thank you. I'm finding this very informative. I appreciate the time. I know we all do, not only the time with us today but the time you spent getting ready and I appreciate that a great deal. Judge O'Malley anticipated most of my questions, which is not surprising because Judge O'Malley is usually ahead of me on these things.

>> [Laughter]

>> But on the money -- as it's being spent, obviously if it's allocated, it will be spent on facilities in part. I assume the money also will be spent on personnel and expansion of mental health programs and all those matters?

>> I'm so talkative. Let me say this: the CCP of course County by County allocates the money. There has been a fair amount of criticism. I heard this even coming into this presentation today that the sheriffs are taking the lion's share of the money. And I would probably counter that by saying there were great needs. The state had been through a dramatic economic downturn, a number of jail beds had been shut down and so to begin the purpose of realignment, there were some things that had to be rebuilt and brought back up to such a place that we then could begin to rollout the meaningful programs that should be associated with this. It has been done to slow. Realignment has been painfully slow. When you take a state process and overlay it on county land, just moving out RFPs and being able to rollout the contracts associated with these kinds of endeavors, takes a great deal of time. We're seeing now -- not hearing about sheriffs getting all the money but programs rolling and sheriffs rolling programs out in partnership with the other stakeholders. So we were a bit broken when this occurred. The state certainly had an enormous problem. The county took on the workload. And the rollout has not been painless.

>> Thank you.

>> Regarding the SB 1022 money, is there a county match obligation here?

>> You are rolling.

>> I want -- you can set me up. It's not right.

>> Good to see you, again.

>> It's minimal. And we haven't had -- some of it is a soft match I believe.

>> Just a quick history, I promise, Judge Couzens, it was 25 percent in AB 900, which was the little brother little sister to SB 1022, and it was such a big barrier to entry for counties that could not come up with the match to make it. So the state dropped it to 10 percent and also allowed a soft match, which accounts for land primarily and some staff time -- but the 10 percent match has been much more attainable for the counties. I think that's a good balance.

>> The elephant in the room is these are public works bonds. So it's not fast money. Let me say that. It has a process with it that makes the appellate courts look simple. How's that?

>> I'm glad you said simple and not fast.

>> [Laughter]

>> I didn't say slow. [Laughter]

>> Thank you very much, panel members. We will have the next group come up.

>> [Applause]

>> The council has some very active committees that advise you on a variety of issues that touch on realignment. We thought it would be useful for the chairs of these groups to talk to you about what's happening in their respective groups—some of the legislation they're reviewing and projects they're working on to facilitate realignment. We have Trish Bigelow, the chair of the Criminal Law Advisory Committee; Morris Jacobson, your liaison to the Criminal Justice Services Office with Shelley Curran; Rick Blavianos, the chair of the Collaborative Justice Courts Advisory Committee; and finally, Brian Walsh, chair of the presiding judges. We will start with Trish.

>> Hello again. The charge of the Criminal Law Advisory Committee pursuant to the Rules of Court is to make recommendations to the council for the administration of justice in criminal proceedings. Our membership must include one of each of the following: appellate court justice, trial court judicial officer, prosecutor, defense attorney, judicial administrator, and a probation officer. We enjoy a broad diversity of those members with a great depth of experience in what they do. They work hard and we always maintain a spirit of collegiality and collaboration. With the advent of realignment, I'm honored to be at the helm of such a dedicated group, whose members regularly and often weekly meet to take their time and busy schedules to service this council and develop recommendations for assisting our trial courts and during the sea change in sentencing. From the outset, the committee has worked to make recommendations to change forms, rules, and to make legislative proposals, all of them singularly focused: to facilitate trial

court implementation with ease in this new area of realignment. I'd like to give you a few examples in each of those areas: forms, rules, and legislative proposals. In the forms arena, to facilitate the new probation revocation proceedings particularly now that we are interacting with the California Department of Corrections and Rehabilitation, the committee developed forms for the courts to use to initiate the revocation process, to request warrants, to revoke and to recall those warrants. In the arena of rules, to ensure that the courts received the appropriate information from supervising agencies to adjudicate these revocations, the committee developed a new rule which determines what is necessary for a trial court judge to make an appropriate determination. What's going to be sufficient? What we need to consider. In the legislative proposal area, one of the things we are most proud of is that we have worked to promote the uniformity and minimize the impacts of dealing with these new forms of supervision, both mandatory supervision, postrelease community supervision, and parole. And in doing so, we've applied the long-standing and familiar procedures to trial court judges that are applicable to probation revocation. Applying new rules is not what we need to do. We are using old rules and new principles. Shortly after our proposal was approved for Judicial Council sponsorship, the Governor's office took up the heart of the bill, swiftly passed it by means of a budget trailer bill. In the legislative arena, the committee regularly reviews pending law legislation to identify court impacts, raise concerns and offer suggestions for improvement as to proposed bills. And we recommend to the Judicial Council the positions that we believe are appropriate. In sum, there really has not been a shortage of work in this unprecedented and unending procedural uncertainties brought about by realignment. Our work continues. Right now in response to concerns voiced about prolonged delays and over detention of parolees, the committee has developed a legislative proposal to prescribe five-day time limits before the supervising agency needs to bring that before the court and to also eliminate any uncertainty about the fact that the trial judge is the one who has the final say on where their housing will be. We will be allowed to put them out of custody if they think or keep them there. We have this proposal and six others that are currently being sent out for public comment. We also continue to monitor and provide feedback on myriad of bills pending before the Legislature, one of which we are working with right now is the Legislature -- some of them are seeking to make it mandatory, that judges impose that mandatory supervision. So we would have to, not at our discretion. We are working on that one. With the assistance of Judicial Council, we really keep our fingers on the pulse of what's going on in the criminal law community. And we will continue to do that. I want to say that I have invaluable been helped by Shelley Curran, Arturo Castro, and Sharon Riley. They're exceptional, tireless. And though not specifically under the auspices of the Criminal Law Committee, I do want to add that Judge Couzens and I have been involved as the Chief mentioned in numerous judicial efforts to bring realignment and teach multiple justice partners on this new area of the law. Realignment law is taught at the Judicial College annually. It's taught at the Criminal Law Institute, taught at California Judges Association meetings, Appellate Courts Institutes, Rutter Institutes, MCLE courses, State Bar meetings, and presentations in the individual state's counties. And in teaching, we are not just teaching judges, we are teaching also

prosecutors, defense attorneys, clerks, people and members of the Board of Supervisors, county executives, police officers, and sheriffs. We've written, Judge Couzens and I, a treaty entitled *Felony Sentencing After Realignment*. It's now 130 pages and covers every aspect of this law statutorily and every case set down by the Courts of Appeal for however long they last. And lest I leave you with the misimpression that Judge Couzens and I share equally in this work, I would be remiss if I don't say that he carries the major burden of that. He has really been a champion in this area, spent any number of hours on it. He believes in it. And his efforts have been tireless. He is a star in our judiciary, a champion of justice, and I am just lucky to have been able to work with him the last 15 years.

>> Morris Jacobson? How is our Office of Criminal Justice Services doing?

>> So Justice Bigelow has anticipated some of my comments in terms of Criminal Law Advisory Committee. So I'm speaking on behalf of Jim Fox and myself. Both -- so if I say anything that -- where I misspeak, it's Jim Fox. Jim Fox and I both came to be liaisons of the Office of Criminal Justice Services at the AOC by way of coming through the Criminal Law Advisory Committee. Jim was there -- he's the longest standing member in history, 16 years. I was there for about five years. Then we came to the Judicial Council at the same time and this was our liaison assignment for the AOC. Before the SEC report, what I would describe as wise minds in the AOC moved in the direction of consolidating various criminal-related tasks and assignments into a single office. They put Shelley Curran in charge, as Justice Bigelow mentioned. She's absolutely outstanding. We had a staff attorney to the criminal law advisory committee, Arturo Castro, who was assigned to this unit. He's well beyond extremely good. And so this is what was going on. Probably the same time the SEC report -- the audit was conducted. So this office and the AOC now comprises several distinct units that work very well together. One is the legal unit; the most visible aspect of that is the Criminal Law Advisory Committee. As Justice Bigelow mentioned, this group among other things not only does it engage in rulemaking and forms, but reviews legislation. This is a really critical aspect of what's going on in terms of judicial branch participation and realignment. To borrow from Karen Pank, she used the phrase, "the tidal wave of realignment." One of the things that we've seen in the last three years along with this has been that many people in the Legislature, not necessarily criminal law lifers if you will have, thought to offer legislation. We've seen a number of pieces of legislation that might dramatically interfere with our ability to conduct business, in the absence of funding. So for example there have been two different efforts at requiring bail hearings or OR hearings for any person in a revocation situation. In Alameda County alone that would have added about 10,000 potential evidentiary hearings to our workload without any money accompanying the statute to pay for the time we would have spent with that. Alternatively, in my own personal experience, I was the person who set up the parole revocation court in Alameda County and immediately began encountering certain types of problems. Right there is the Office of Criminal Justice Services, which is available to provide help, to provide advice, and also to help forming legislative fixes for some of the problems we're seeing every day in the trial courts. So the legal unit as I said

covers forms, covers Rules of Court, and covers this review of legislation that is absolutely imperative. A second unit is the research unit. This unit is focused on gathering data. And there's a lot of things that are expressed about realignment if you listen -- if you have conversations with people. Some people are very enthusiastic about it and think it's the answer and be-all and end-all. Other people think doom is upon us. And what this research unit does is it's gathering statistics in a neutral way to give us an idea about whether we are reducing recidivism on the one hand, which is one of the key goals, but also whether we are continuing to protect public safety. And so this is a work in process -- work in progress. The research unit has come up with data points. We've gotten almost every court in the state to begin complying with this. And then we're going to be able to get a look over a couple years to see whether, as has been widely reported, low-level theft offenses have gone through the ceiling without -- where thieves are able to act with impunity. Or whether in fact we are successful in these efforts to provide programmatic answers and reduce recidivism and returning people to lives that don't threaten our public safety. So that unit, which is headed by Francine Byrne, at this point looks to me like a very effective unit with very good statistics. There's also a unit that is in charge of programming. Michael Roosevelt in charge of that unit. Providing seminars and educational programs in terms of realignment from the point of view of the courts. So we have a very, very good unit there. I'll just make this pitch. Curt Childs asked me not to but I'm going to make the pitch anyway. It needs more resources.

>> [Laughter]

>> Judge Jahr, I'm on record on that one.

>> Thanks, Morris. Collaborative Justice Courts?

>> I thank the Chief and members of the council for the honor of being able to speak to you today and also being chair of the Collaborative Courts Advisory Committee. It's a particularly exciting time to be in that spot because the role is pretty exciting. The committee focuses the charge on effective, efficient practices in assisting local courts. I don't know if everybody knows -- but we have more than 350 Collaborative Justice Courts statewide and we have Collaborative Justice Courts in all but two of our counties and more than 200 that deal with criminal issues. Criminal cases. The cost-benefit study we had done of the drug courts a while back shows these courts reduce recidivism by about twofold and costs by about \$11,000 per participant. Basically, it is an evidence-based practice. Something that's been researched, studied, proven to have results. And the cost savings come about by the reduction in recidivism. One time I was having a conversation with one of my colleagues that was saying, great, good thing you are doing this stuff but we don't have the time to invest or to do more of it. And I looked back and said, you don't have the time not to because the increase in recidivism when you don't do business that way winds up with more cases. So it's a long-term savings. There's some other stuff we know from the research. These types of courts are not designed for anybody but high-risk, high-needs individuals. They are -- should be designed and applied to individuals who present the highest

risk and have the highest needs. So you are going to monitor more closely and going to do the linkage to resources to try to make it more effective. So if you look at the criminal system case -- I like to look at it in two parts. There's the part of that case that goes from the arrest up until the sentence, which is the traditional system, and that's what the traditional system is designed to do. It does well, it functions, and that's the role. Once an individual is sentenced, they are usually placed on probation, community supervision, or parole. Now you have the second half of the case, which traditionally gets ignored. That's where we get our bad results. So oftentimes people will look at collaborative courts and think it's somehow being in competition with the traditional court system. There's no competition. It complements the traditional court system by making that probation, making that parole, making that community supervision more effective. I like to think of it in those two different processes. I've gone through that. I've talked to Judge Jacobson and his committee about it, and looking at it that way, doing education about it, and I think it's a pretty good way of looking at it overall. Now, with realignment, that supervision angle just became much greater because now not only do we have probation, but now we have mandatory supervision, local community supervision, PRCS, and parole. All of those are now coming to the courts. So those are individuals, many of whom would have gone to a different system before realignment that are now coming to the court. We thought realignment was going to happen when the bill first came down. It was pretty clear that it would have. We thought the Collaborative Justice Courts had the ability or the way because the partnerships already exist in the collaborative courts. The collaborative courts always already have partnerships with probation. The courts that were doing reentry already had collaborative partnerships with parole. Treatment providers, with the providers necessary for the resources. What we look at in collaborative courts is like the last stop before somebody winds up going back to prison, to keep that from happening and make the community safer, by addressing specific issues like mental health, drug dependence, antisocial thinking, and veterans issues. So we're using the collaborative courts in this way. The goal is that we can relieve the offenders that go to prison or jail but also relieve the workload of the court because by being more effective in managing that population, we are reducing our future incoming and able to manage the court more effectively. Definitely realignment is a work in progress with all kinds of challenges. The way we look at it is our goal is to take the highest-risk, highest-needs cases that are failing or likely to fail and find ways to get better outcomes for them so that we use less prison days, less jail days, less court resources on it. We look at our role as supporting the courts and partnering with the county to get what the courts need to make realignment work. And which gets me to the point where I want to wrap it up. The one thing -- it's been evidence-based. The Legislature has shown in multiple different forms and the Governor, the ability to invest in that model because that model has produced results. The most recent example was that taking money from CDCR's treatment budget and dedicating it to increase parole reentry because they saw the results. We look at it as a way to increase the resources for the court and counties in dealing with the population.

>> Brian? From the presiding judges' perspective?

>> Thank you for the opportunity to change seats and sit here. From this point of view, you look much more August.

>> Or July, right?

>> [Laughter]

>> You may recall at the December meeting when I was sitting in one of those chairs I reported on liaison visit to Stanislaus County and what I have since been calling the Stanislaus conundrum. A great group of trial court judges working hard to do everything right with very limited resources but frustrated by jail overcrowding. In their case, it's a decades-long problem but by all accounts made worse by 109. And they tell the frustrating stories. The DV defendant sentenced to a year in jail, back in front of the judge in three weeks having been left out and did another DV crime. Another DVer on a 52-week batteries program didn't go to the classes and the judge is wagging his finger, don't you know I'm going to send you to jail? He gets scoffed at because, I'll be out. Other courts have told us, defense attorneys openly say to the clients, take the deal, don't worry about jail. If you take this deal, you will be home tonight before the judge is. That undermines public safety, undermines judges' sense of their own purpose or their morale. And it's frustrating to everybody involved in what we do for a living. So TCPJAC decided to begin a discussion on this not just about 109 but broaden to the issue of jail overcrowding. What is a judge's role in dealing with jail overcrowding? At the annual meeting, January 30 of this year, with CEAC and TCPJAC judges, we had a very interesting program, an earlier speaker mentioned this, on the Affordable Care Act in the criminal jail population. We had a great handout full of materials. The point being that a lot of people are in jail because you can't find a bed for them. You don't want to release them to the public. Now they have insurance. Whether it is a substance abuser and you can't get them into the local treatment program. Now they have insurance. We talked to the judges and CEOs about that. The next day, we went -- with just a trial court presiding judges -- we had a panel on what is the judge's role in jail overcrowding? And there were wide views on this and in fairness, very good judges said, look, our job is to impose the right sentence under the law and the facts. And it's up to the jailer what happens after that. Others said, split sentencing is a nice idea but I don't have confidence in the public safety aspect of it because in some cases, my probation department is so underfunded, they are stacking the cases and they can't give the time and attention to the defendant. I don't feel I can release them. One judge even pointed out -- David Wesley, PJ of L.A., read to us from Marcie's Law, which if you don't mind, I will read to you from section 28, subparagraph F, sub 5. This is the Constitution of the United States [sic; California], and it says, "Truth in Sentencing. Sentences that are individually imposed upon convicted criminal wrongdoers based upon the facts and circumstances surrounding their cases shall be carried out in compliance with the courts' sentencing orders, and shall not be substantially diminished by early release policies intended to alleviate overcrowding in custodial facilities." It goes on to say, "[t]he legislative branch shall ensure sufficient funding to adequately house inmates for the full terms of their sentences." That's the Constitution. So I thought that was interesting. Anyway, -- several trial

courts have sought participation in the problem. I think you'll hear from some of them later. In the same discussion, Brian Back from Ventura told us about what they are trying to do with it. Alameda County, Morris Jacobson could tell you about how they are trying to grapple with this by having one judge do all the revocation sentencing, because an experienced judge will give consistent sentences. That can only help with jail overcrowding issue. And in our county, where we are having the sheriff's department and PO join in training our judges so they feel more trusting in how well the defendants are being handled, if they are released, so that our split-sentencing numbers have gone up and up as we build that confidence. Also with the reentry folks, in our county we have a reentry court for parolees where we see them in court even before they've committed a crime. They want to come. They need help. We give them help, introduce them to services. And then we expect our involvement as PJs will be ongoing. Of course all of us are having our visits from the Governor. Linda Penner made a reference to that. As she mentioned, we had one in Santa Clara County. The Governor wanted it in a closed room where it could be more candid. What a quaint idea actually.

>> [Laughter]

>> But I digress. I understand. But was a great meeting. I talked to the other PJs who have had those meetings and they've been a valuable discussion. Finally as we are in Sacramento talking about trial court funding and promoting the Chief's advocacy, we're getting some pushback from legislators and people in the Governor's office, what about the court's role in 109 funding? Is there something that the courts would be -- could do with some of that 109 money? Not any part of the \$612 million but some of the 109 money? We are carefully and cautiously at least entertaining discussions on that. I have talked to some courts but maybe there are some things with that other kind of money, we could get case managers, we could get our own treatment therapy folks. But in sum, I want to say that I think it is a fair description of the view of TCP that though the trial court presiding judges can't solve the problem of jail overcrowding, we can and we want to be an important part of the conversation. Thank you.

>> Are there any questions from the council as to this panel?

>> I had a question about the collaborative courts. Some of the things we've heard is that some of them are being cut back because of budget constraints. How has that affected this area?

>> Well, at least in terms of the ones that are funded through the drug court funding, there hasn't been a cutback on drug court funding ones. The parole reentry dollars that were out there, most of the actual courts have been funded through the grant funding process and that process really hasn't diminished. Individual courts do it differently and they have their own budget issues. Individual courts may be dealing with it separately out there. On the committee, though, the funds are pretty good in terms of coming in. Like I said earlier, it's something that grants and governors and legislatures at least appear in the current times to be willing to invest in. So it's a way of getting dollars into -- to allow processing of cases but I can't speak to every court. Every

court has to go through its own decisions of how it's going to deal with budgetary issues. So I don't know about that.

>> I'm not sure who can answer this question but we've talked about the funding and how the jails and the sheriffs are going to get \$100 billion or \$1 billion, \$500 and \$500. Probation is getting a certain chunk. The counties are getting a certain chunk. I'm looking at the trickle-down effect. From the experience in my own county that really, I think the courts are getting the smallest amount of any amount of money coming in. Yet we are the ones having all the court hearings and we have the staff and have to process these things. Certainly we're not housing them but the whole process is being -- gone through the courts before it even gets to probation or to the jail for the sentence. So it does take time and staff and money for us to be able to do that. So is there any discussion with the PJs or the Criminal Law Committee or anybody else about increasing from the 109 money money for the courts?

>> Well, of course there is a pot of money already. We have a distribution method. David Wesley and David Yamasaki are a part of that. But there's no question that we could do more for jail overcrowding and do more to implement the spirit and purpose of 109 if we had more money. I'm not talking about the woeful underfunding and operations but specifically under 109, I don't think there's any question about it. I've talked to judges about this. We don't want to undermine our advocacy in Sacramento. We don't want someone to say, 109 money, great. We will earmark that in your budget when we give you your operations money. That would be wrong. But we can be part of the same solution that the probation department and sheriff's department and everybody else is a part of. I think we can be part of that 109 solution with 109 funds. Not large amounts. Not the \$100 million times but with discrete amounts, I think we can do better and do more.

>> I will piggyback on that very briefly. I don't know about other counties. You mentioned -- you mentioned Contra Costa. Alameda County has been woefully unsuccessful in getting any piece of the 109 money pie. It has -- unbelievable in my view. We made a request two years ago for \$150,000 for case managers for this revocation court. We didn't get a penny. Sheriff's department got \$22 of the \$35 million that was given to our county. We got nothing. Nothing this year in our request as well. So the community corrections partnership that divides up that money -- it's difficult for us as courts to be very deeply involved in that. For some of the same reasons we talked about with the open meetings rules. We have ethical concerns about getting involved in a discussion about dividing the pie of the money with people who are going to appear in front of us. So there are issues there. But we are certainly in my limited experience, my county only, we're not getting our share and we have specific articulable needs where we could do more. No question.

>> I would add to that also the Criminal Law Advisory Committee has a constant refrain, which is there's not enough money to take care of all the courts they want us to have on PRCS and taking over parole, it's very expensive. And every time a bill comes through, we want to

accommodate the Legislature. A lot of times the members will say we simply cannot afford this. The court is giving these services in kind, basically.

>> Yes. Definitely.

>> I will end it on that note. We will bring the next group in. Obviously, we as a system are facing a lot of challenges. But would like to end on a positive note in the sense that we've identified three courts that have really risen to those challenges and have created some very active aggressive programs to deal with this new population. So we have with us Brian Back, who will talk about Ventura's pretrial release program; John Kennedy, from Contra Costa, will talk about split sentences; and Judge Desiree Bruce-Lyle from San Diego, regarding the mandatory supervision court. So let's start in chronological order. Brian, talk about Ventura.

>> Thank you, Chief, Judge Jahr, and honorable members, for having all of us here and listening to us and having used the word honorable, I do know some of the members together the greater depth. They might be Jim or Dean or Brian. I say that because knowing them as I do, there's a distinct possibility they could find themselves accused of a non-prison-eligible 1170 H crime at some time. If they're coming through Ventura county, good for them.

>> [Laughter]

>> I think we have more than one Jim on the council.

>> I feel it's safe.

>> Only one that just spoke up.

>> I don't know the man.

>> Listening to all of what some of us knew a lot about and some of us didn't, the program I'm going to tell you about didn't need realignment to create; it needed us thinking more like judges and being collaborative with our partners and coming up with our best efforts here. We have a pretrial assessment program. Not that far outside the box. Just sitting down and thinking about it. The information you have, the way it works is as follows. This all came from the CCP. The CCP in our county is 900,000 people, 29 judges, we are two short right now. They wanted to address what reality is: 20 percent of our jail population are postrelease and parolees. As with most counties, roughly 60 percent of the jail population is pretrial. Not an overpopulation issue, not a counter constitutional issue, but a "who belongs in jail" issue is what this addresses. So what happens is on the non-prison-eligible 1170 H cases that are coming before department 13, they're all coming before one department, the night before, the District Attorney gets a list of all those people that are going to come on the next day. They look at the list, determine eligibility, e-mail the list to two dedicated probation officers who look at it further to make sure there's eligibility. The next morning when that person comes on for arraignment, this is the very first appearance, the deputy has worked up the bail schedule for the judge. So the judge has that. As

we know, we are annually required to re-up on that bail schedule. Bail is a requirement that we have. Typically, all we have had in the past is bail. Does bail ever get adjusted? Yes. It gets adjusted up. Here's your bail, \$5,000 added for a misdemeanor probation, \$10,000 for a felony probation, whatever it is, it rarely gets adjusted down. Typical bail increase, not too many decrease motions. So this list goes to the probation officers. Probation officer plucks that defendant out of court the next morning, conducts a 45 minute, face-to-face interview, and then goes through the ORAS (Ohio Risk Assessment System Pretrial Assessment Tool). And there's a copy of it in your program. It's a very simple question-and-answer tool combined obviously with the 45-minute interview. And combined with what else we know about the person. The probation officer that generates the report e-mails it to the District Attorney, public defender, and that case comes on at 1:30 in the afternoon. At 1:30, when that case comes on before the judge, the judge has the ability of both the DA and the PD to argue with regard to what the release situation should be. Should there be bail? OR? OR with conditions? Typical conditions are what we think they might be. Drug problem, this person is required to report for testing. They may be required to check in with probation. Some of them will be released straight OR. The judge makes the call. The attorneys at least have the opportunity to argue it but the judge makes the call. What we have as in most of these programs is the pudding. That's where the proof is. So the information you have in front of you is the six-month review. We rolled this out on September 30 of last year. It takes a while to get these rolled out. And among other things for a judge who is not comfortable with doing things this way until he or she sees it done a couple of times and sees that it might work. So when I say the proof is in the pudding, I hope that information is in there, since September 30, ending March 30, 241 defendants were reviewed. Forty-five percent of them were deemed low risk or moderate risk. There was a recommendation they be released OR or OR with terms. The numbers are in the six-month period, 110 people were released with OR terms or just straight OR. Here's the proof in the pudding: 94.5 percent of those appeared in court as directed, 94.5 percent of those remained arrest-free; 87 percent tested negative for controlled substances and alcohol and reported to probation as directed; 77 percent appeared in court as directed, remained arrest free, tested negative for controlled substances and alcohol, and reported to probation as directed. Some of these -- those are good figures. Really good figures. Some of the interesting figures -- is that printout in your packet, I hope? The figures under that show when the judge didn't have a recommendation for release but because of the information that he received, he still felt compelled to release the person OR or OR with terms. You'll see the numbers, instead of 94.5 appearing in court as directed it's 89 percent appear as directed. Still a pretty good number. But when you see 94.5 percent, is that a good number? Yes. Some of the things -- some of those non-appearances in court were explained afterwards. It wasn't always that the guy or gal just failed to show up because they were blowing us off. There were reasons why in some cases. So what we have found is because of the numbers -- if you back up, although the numbers are a little bit reduced when the judge makes the call even when probation has not recommended it, that suggests what we all know or at least are learning about evidence-based practices. It's tough sometimes, but you have to have fidelity to the objective instruments.

Anybody who has been in juvenile court or juvenile law for the last 15 years knows this is old hat. This is what we've been doing in juvenile for years. If you remain dedicated to the instrument -- talking about the pretrial assessment instrument -- you are in pretty good shape for making your decisions informed by that information. So that's what we have. I could go into more detail but I don't need to. It's a very simple program that we're seeing works. And everything you've got in your packet -- I keep saying I hope it's in your packet. You've got the whole kit and caboodle. If you want to sit down with your collaborative group in your county tomorrow, you can adopt this program, give it a ride, and see how it works.

>> Thank you, Brian. John Kennedy? How did the sentencing process work out?

>> I'm going to talk about split sentences because that's our topic from Contra Costa County. The experience we've had. As Justice Bigelow explained, split sentence applies when a defendant is eligible for county jail sentence, not state prison sentence. The judge has the option of sending the defendant to serve the entire time in county jail or to divide it between county jail and mandatory supervision. These are for nonviolent, nonserious, and nonsexual offender cases. Realignment first came about in Contra Costa County, we gathered our experienced criminal judges including Judge O'Malley and got our arms around the law and said we've got to get ahead of this curve. So we educated our judges, sat down with our DAs, PDs, and other justice partners, probation, and sheriff's department and worked together to recommend some steps to implement this correctly. From a judge's perspective, we look at the split sentencing option. This is how it plays out in real terms to put it as concretely as I can. Once I have concluded a sentence for a defendant, let's for example say it's a five-year sentence with all enhancements and everything, I can send the defendant to county jail for five years. He'll, as a practical matter, served 2.5 years, walk out the door, have zero supervision, zero services, no drug testing, no search and seizure, walks out the door with nothing. Second option, and that's after two and half years of a five-year sentence. The second option is I could split the sentence with three years in county jail and two years of mandatory supervision. The defendant serves a year and a half of the three-year jail sentence. Then he has two years of supervision. He is released, required to report to probation. Our probation officer is visiting him in the jail before he releases to make sure he knows they are going to be watching and waiting. And then once the defendant gets out, he or she gets services, tested for drugs, drug treatment, search and seizure requirements if imposed by the judge, and job training, housing, mental health, whatever they need to the extent our services and budgets permit. The important thing is that that person is then in jail for a year and a half plus two years of supervised release. The total time we have some control over the defendant is three and a half years, rather than two and half years of a straight jail sentence. If you divide it two years county jail, three years supervision, a total of four years of actual effect on the defendant in an effort to reduce recidivism. So the swing can be on a five-year sentence, from 2.5 years in county jail, nothing further, to four years of jail and supervision. Our conclusion when we realized the ramifications of this was that we would prefer the supervision. So we again met with our DAs and PDs and our probation office and encouraged split sentences. As we all know,

the vast majority of criminal cases are resolved by a plea agreement. Our DAs and PDs have reached plea agreements in very many of our cases that include split sentences. As a result, since October 1, 2011, 81 percent of every case sentenced under 1170 H has been a split sentence in our county. We didn't set out to be extraordinary. That turns out to be far higher than the state average. One of the benefits obviously is it reduces our county jail population. So it helps with our bounce against the ceiling on our capacity. The real question of course is whether it does so at the expense of public safety. We have been tracking that stat since we started with this on October 1. We find 26 percent of those on mandatory supervision are failures in the sense of either they have [Indiscernible -- low volume] supervision or have committed crimes while under supervision. That rate [?] favorably with [?]. So we don't believe that the cost in reduced jail time has resulted in less community safety. We think -- by having supervision rather than having straight jail and released into the community. So I think we're certainly to say obviously, we're pretty comfortable with the choice [Indiscernible -- low volume] has been a successful one for us.

>> Thank you. Finally we are going to talk to the post-release folks, people who have done their time and their out. Desiree Bruce-Lyle is the judge who supervises most of the post-release folks. We've asked her to specialize in -- focus her comments on the mandatory supervision group and mandatory supervision court that she runs, which is very intriguing. Desiree?

>> Thank you very much. Chief and honorable members, thank you for the opportunity to address your council today. I've been told I get wound up when I talk about this subject. I don't have enough time here to get wound up. I don't think. So I'm going to get straight to business. San Diego has one of the five original parolee reentry courts. That was established about three years ago with funding from CalEMA grants. With the advent of realignment, the funding source changed to AB 109 funds. And the court was renamed reentry court. Today, it serves parolees, PRCS, and mandatory supervision offenders who pick up new felony charges. Now, in 2012 a visionary sheriff, William Gore, established a reentry facility in San Diego. And the facility is designed to house offenders, male and female, with split sentences. He rolled out a plethora of in-custody educational programs designed to mentally prepare the offenders for a seamless transition from custody into community supervision. The facility offers an impressive list of programming including cognitive behavior therapy, substance abuse, GED, life skills, and other psychosocial and vocational classes. The sheriff's approach inspired San Diego Presiding Judge David Danielson to establish what we call an AB 109 postjudgment court. This court hears parole revocation (PRCS) violations, mandatory supervision matters, and reentry court matters. I preside over the court. Due to time limitations, I will limit my comments to mandatory supervision court. This court was engineered by Judge Danielson. It is a collaborative effort between the court, sheriff's department, DA, PD, probation, and Health and Human Services agencies. It is a hands-on court. It began operation in February 2013. As Ms. Bigelow said, mandatory supervision talks like probation, walks like probation, but it is not probation. I'm hoping after I'm done talking you will recognize or realize why. We have prerelease hearings.

Thirty days prior to release to mandatory supervision status, the offender appears at a prerelease hearing in my court. I make sure that there's a comprehensive case plan developed by probation. This is based on evidence-based risk and needs assessments. The plan is shared with all the parties prior to the hearing. And we have a precalendar meeting to discuss any issues relating to the reports prior to me taking the bench. I go over the plan with the offender in the court. We establish a release date, confirm conditions, programming, and requirements to make sure that the offender understands that he or she will be closely monitored while in the community by probation. One of the distinct differences here with probation is the close monitoring. Upon release, the offender is fitted with GPS for a minimum of two weeks. This is to ensure that curfews are followed, the offender assimilates into the community supervision. We also have status hearings. The offenders are evaluated on an ongoing basis to ensure the delivery of services are provided in a way that supports their case plan. The goal is to provide a step-down approach that is comprehensive and supports the efforts of the community programs and the probation officer. We employ incentives and sanctions. These are employed to reinforce the need for continued compliance. The frequency of review hearings for an offender is dependent on his or her level of compliance and progress in the community. We also have revocation hearings on mandatory supervision. Mandatory supervision violations are heard by the court, and the offenders are sanctioned accordingly, including revoking their mandatory supervision and remanding them to serve the remainder of their mandatory-supervision time in custody. So far I have seen more than 350 offenders transition into the community. Our calendar operates one day per week. We are about 40 to 60 matters on calendar and it continues to grow. What lessons have we learned? Each person has his or her own risks and needs and they should be addressed with an individualized plan. Fairness must be balanced with individual needs. We've also learned that there is no one-size-fits-all policy or law that will fix recidivism. What challenges and limitations have we encountered? The fact that most offenders are resistant to treatment or any type of structure while on mandatory supervision in the community is a challenge. It is very troubling. It is very important for us to incentivize offenders to engage in rehabilitation. Right now, it is too easy for an offender to opt to do their time as opposed to community supervision. Even though we call it mandatory supervision, and you've heard some of the speakers say they can't opt to do their time, they find a way around it. Custody credits motivate them to want to do their time as opposed to engage in rehabilitation. So rehabilitation becomes a hard sell from the court's perspective when the other option is shorter custody time with no supervision at the conclusion of custody time. It takes a good six months for the fog to lift and for the offender to engage in the process of changing their lives. Without the hammer of a jail term, there's no motivation to continue to engage and break the recidivism cycle. For example, a mandatory-supervision offender serving 18 months of community supervision from a three-year term recognizes very early, about the six-month point, that in the community, life could be -- after six months in the community, they recognize life could be a lot easier back in custody where he or she would only have to serve six months of the remaining 12 months, get out with no supervision, and what we find then is that there's no motivation to continue, the motivation shuts down, they violate, they

get a revocation, and they get a reward because they get a shorter time to serve the custody. We should consider incentivizing good behavior and punishing bad behavior. A change would also encourage more judges to impose split sentences with the knowledge that there's a safety net to protect our communities if the offender fails to adhere to community supervision conditions. The use of split sentencing as you've heard already today has varied from county to county, branch to branch, and even courtroom to courtroom. It would be extremely helpful to have a Rule of Court creating a sentencing structure that embeds needs assessments into the sentence. And it was music to my ears to hear Justice Bigelow indicate that the Criminal Law Advisory Committee is looking at that very issue. So I will not belabor that point. Mental health treatment is another challenge for us. Offenders with mental health treatment present a very, very extremely problematic challenge. It's difficult to find appropriate facilities to house and treat those offenders. But that is in and of itself a presentation by itself. While it's too early for data to establish certain trends, early unofficial indications that I have observed that recidivism in the mandatory supervision population is much lower than that of probationers and PRCS offenders, I can comfortably state that we are changing minds, changing lives, and making our communities safer. We have a lot of work ahead of us but we are on the right track. Thank you very much for the opportunity to be here today. If I can be of any further assistance to continue this dialogue, I would be more than honored to participate. Thank you.

>> I think that rumble I hear are stomachs waiting for lunch. If there are one or two questions I can take of this panel, we will permit that. Any questions? David?

>> Are you seeing the attitudes between defense counsel and prosecutors morphing? In the beginning, it seemed like prosecutors wanted straight time and defense counsel wanted splits. And are you seeing that changing?

>> Is that directed to me?

>> Anyone.

>> I can answer that from San Diego's perspective. District attorneys are a champion of mandatory supervision. They've been educating all of the DAs in that office. They are very open to the concept.

>> Really looks at many levels like this varies tremendously right now county by county depending on the DA's attitude, depending on the sheriff's attitude, and the court participation.

>> Other questions? Yes?

>> This is for Judge Bruce-Lyle. Do you tailor the programs to the services that your probation department has access to? And what do you do if they need services that like you said, mental health services are limited?

>> We actually have -- it was a whole separate presentation in and of itself -- we have a lot of community-based organizations that provide mental health treatment. Probation has pulled them into the fold. And we rely on them for those kinds of services. But yes, we're always, at some point or another depending on the needs of the offender, limited in what we can provide. But we are very lucky in San Diego that we have in existence a huge collaborative effort. And it's always been in San Diego. And it's very helpful.

>> Brian, final comment.

>> We have all seen mental health issues being really challenging for us over the years. Starting July 1 last year, when we got parole revocation hearings, you can step up the mental health issues more than a couple of steps. We're seeing people -- we haven't had to report -- haven't had to resort to many LBS pathways with most of the people we see but we're starting to see it now and you are seeing all of the agencies impacted—human services, public health, everybody is being impacted. We are getting significantly greater mental health problems with the parolees we are receiving.

>> Lots of challenges but I think there's lots of good things going on. This is definitely a work in progress. I hope this presentation has given you a context for some of the things you're going to be getting from us, from the committees and so forth, and various programs. We very much appreciate the time you have spent with us, Chief Justice, it's been a pleasure. Thank you very much.

>> [Applause]

>> Thank you. That was really fascinating. Thank you very much. We look forward to recommendations and proposals as we move ahead.

>> Thank you.

>> Thank you for all the work you do in teaching us.

>> We have another matter on before we break for lunch. Item H, Odyssey case management system deployment. James Herman, I will ask him to have his panel introduce themselves.

>> All right, panel, please?

>> We're here to tell you about technology.

>> [Laughter]

>> Trying to figure --

>> I'll do the introductions.

>> Calling the Help Desk?

>> Welcome to my world.

>> I'm really excited about this presentation because this really is an early win in the post-CMS conversion to the idea strategically of digital courts throughout the state. On March 27, 2012, the Judicial Council stopped deployment of CCMS V4 as a statewide case management system and as the vision of the branch going forward through a digital court. And San Luis Obispo had been an early adopter court, or was an early adopter court at that time, and they had done substantial predeployment work with the AOC in order to get ready for that V4 deployment. The background is they had a case management system tied to the county that was on the verge of failure and had delayed a number of years in going to a new case management system because of the vision of V4. So they were literally -- not literally, figuratively had the rug pulled out from underneath them at that point so at the June 2012 council meeting a couple months later, the council approved funding up to \$3.36 million out of the Trial Court Trust Fund for the replacement of their failing system. One of the conditions which we applied in other areas with courts that we had assisted, one of the conditions for approving the funding was quote-unquote high-level project oversight with verification and validation of the project. That oversight on behalf of the Council and the Technology Committee was performed through ITSO and the AOC. The court selected Tyler Technologies' Odyssey case management system, went into contract in November of 2012 with go live which was projected by Tyler and they hit the date on the nail, January 2014 this year, with the e-filing component to roll out in June of 2014. As part of that process, ITSO staff prepared a template RFP, which was later adopted and under the leadership of the Sacramento court became the RFP that resulted in the three vendors that are in play in California. The Tyler system has gone live, did go live in January. And they are the first court -- the early adopters of this system, the first court to go live with a Tyler system. I think at this point, there's like 19 courts throughout the state that are either currently in contract or close to being in contract with Tyler. One of the benefits of Tyler -- and our panel may speak about it -- there is an opportunity for courts if they want to interface with other courts in terms of case access and so forth and so on. One of the good outcomes here is that we're anticipating a return under the amount authorized by the Judicial Council to the Trial Court Trust Fund of an unneeded funding of approximately \$500,000. So it's really my pleasure to introduce our Presiding Judge of our sister county down on central and south coast, Judge Dodie Harman, as well as Court Executive Susan Matherly. They are here to talk about the success story. Ms. Matherly is also on CTAC and has been for awhile, so she is dedicated to technology, information technology issues, and Judge Harmon is now going to make herself a resource as the early adopter court for the other courts around the state who are in process in terms of deployment of the Tyler system or are in contract with Tyler. So at this point it's my extreme pleasure to introduce Judge Harmon and Susan Matherly.

>> Thank you, Judge Herman. Chief Judge Jahr and members of the council, thank you for the opportunity to tell you about our success story. I want to thank Judge Herman for that introduction to our story as well. As many of you know and as Judge Herman has indicated, we

came to this council via Judge LaBarbera at the time, who was then the presiding judge, requesting the money to adopt a system that would replace our rather ancient system. We literally had been limping along for 12 or 13 years trying to get a case management system installed in San Luis Obispo County. We were on ancient DOS-based systems. Somewhere between 19 and 25 different DOS-based systems depending on case types and upon different portions of different case types. And it literally was a mess. We didn't know how much longer we could survive. It was a very bleak situation when Judge LaBarbera came to you. I want to thank you for funding us so we could come out of that bleak situation. Thankfully in 2012, this council provided to us the money based on that money we were able to choose our own vendor, which was critical to our court. We were also allowed local control that's so critical to the courts throughout the state of California in terms of adopting their case management systems. Having been intimately involved in the case management system for quite some time, and when Judge LaBarbera received the money it was immediately turned over to me as the APJ at the time to put together the group to get a case management system for us. We were able to implement a system that really is an excellent example throughout the state of what we as a local court can do in adopting such a system that meets the needs of our court but also is truly a wonderful example to the counties throughout the state as to what you can do in adopting a case management system. As Judge Herman indicated, I am becoming a contact person as is Susan Matherly throughout the state for courts to come and see what we have done. We come from an area that is very tourist based to begin with. But now it is court tourist-based as well. We host many a court in terms of coming out to see our system. We are pleased and proud to do so and show them what we are able to do. We had as all of you know and as Judge Herman mentioned, a very aggressive schedule. We wanted to go live within 13 to 14 months. That's extremely aggressive because we were not talking about going live in one division of the court but in every division of the court. Replacing every single aspect of the old system. So based on that, we went forward. We set a very clear business plan. We had a very clear budget. We were able to implement within our budgetary -- within our budget and also within the time that we gave. Also, we were able to stay true to our business plan and continue to stay true to our business plan as you'll see throughout the presentation. I think each of you were given a copy of the PowerPoint presentation ahead of time. And I just want to run through some of the things with you. As I indicated, we had project kickoff in November 26th of 2012. On January 21, 2014, in every division of the court, we went live. And I'm not talking just about going live in criminal, family, I'm talking about every division of the court. There's not anything that wasn't touched. Financials, everything. So our scope was to involve all the case types including financials as well as the reporting requirements that we have, DMV, DOJ, all the various reporting types. We wanted to go live on those with the system as well. We decided not to do a data conversion of old information. Instead, what we did was manual data conversion. We created what we called skeleton cases initially with the old cases. As those cases come into the courtroom, if they do, if the person doesn't stay absent from our county until somehow we find them, then we manually put those cases into the current new case management system. We had over 20 local justice integrations. By those, I'm talking about

integrations as you know with the Police Departments, probation, with law enforcement, all of the types of local justice integrations that must be made. So on our end have completed the work necessary for those integrations. The county who thought they would be waiting for us, we are now waiting for them to complete their integration factors. We had 32 development projects within this. That was close to 12,000 hours of development projects. So what has this done for us as a court? And for our community? The cost savings has been tremendous. This initial investment will create a tremendous cost savings throughout the rest of the time that certainly I am in this court and well beyond any time to time in this court. We've reduced the application support that's necessary for our systems mainly because it is a one application. It is Odyssey. It is not 20 to 25 applications. We've eliminated a costly microfiche document archive solution, which we've had for many years, and we've eliminated the costs of that. We've reduced the physical file storage needs, which may not sound like a lot, but as those of you who are in courts, you know those physical file storage needs can become rather huge. You wind up with off-site locations, wind up with just a nightmare trying to locate files. We no longer will need that because every file will be in a computer. We've eliminated really expensive custom programming. When laws are changed, when fines are changed, anything like that, when you think of when all the weapons charges were renumbered and given new statutes, every year, there are fine changes, sometimes twice a year, there are fine changes. That now is a simple configuration change by Tyler and updated in Odyssey. Not a complete reprogramming that must be done. So it saves us time and money throughout the year by not having to adopt a completely new system to adjust to those statute, fine, and docket changes. The processes have been -- we have savings in those too. We streamlined from the use of -- I think the PowerPoint says 19 but we actually have calculated there were somewhere between 20 and 25 different applications that we narrowed down to one. One of the most important things to me was -- and to Susan Matherly -- was ease of training. We wind up often with people who are in the courts, knowing how to do one thing. And they do it really well. But then as our budgets dwindle and as our staff dwindle, and as our staff hours dwindle, we need people who can do many things. By adopting one system for every case type and every aspect of the court, we're able to cross-train with this system because once you learn the system you can do it in any case type. So this was a big process savings for us especially a small court like we are. We've also transitioned from the back-office processing. For instance when you finish a case in the courtroom, then it goes to legal process, whether it be civil, criminal, family, juvenile, whatever your divisions are. We have real-time court processing. When that case is finished in the courtroom, it's finished. As if you can put it back on the shelf. We are finished with it. Everything that needs to be done has been done. Live, real-time in the courtroom. It improves the calendar management and the courtroom flow for all of the judges, for the clerks, and everybody who works within the courtroom as well as for the courtroom users. We had a clear strategic direction that we wanted to take again in the cost savings. We decided to host our solution. This was very important to me, that the court both own the data and that the court own the system. We do. And that's critical to me. We have tremendous support from the Tyler Technologies Company and specifically the Court and Justice

Division of Tyler Technologies. But we own the system. We adopted the Tyler Evergreen solution. I hope that all the courts that are going onto Tyler adopt the same thing. This allows I will collect it free upgrade, part of the annual maintenance agreement to any future release in functionality. That, you will see, is very important as I show you where we are right now and where we are going. This is really exciting to me because as the different counties adopt the Tyler program at the very least for instance, Orange County currently I believe is adopting Tyler. They are working I know at least in the family law division. They will be adopting a California and helping Tyler to develop a California family law-based system. Currently our family law-based system is based on a Minnesota style. And once Orange County has developed that, we can adopt and implement it. Costs us nothing. So that's important. As each county is able to focus on what's important to them in developing the system, every other court can decide if they want to adopt or implement that portion of the system. So it's an Evergreen solution that's critical. We began the transition to a paperless court. Obviously that helps to improve customer service. It's what I like to call, we're greening the court. That's also another important thing to me is to help the court to become green with a paperless solution. This also allows for a smooth integration with other components of the Tyler system. Again, all a part of our Evergreen solution. That is the Tyler e-filing system that will be going live in either late May or early June. The SRL solutions that they have, which is a fantastic new development that they have that allows and assists self-represented litigants in preparing their documentation for court in whatever type of case they are representing themselves. All of that improving access to the public, for the public to justice, tremendously. It also clearly reduces case processing time in that we are real-time throughout the system. So where do we go from here? I suppose is the question. A lot of people think, You have implemented the system, so okay, we're good to go, all finished. What we've done is we are continuing to maintain our key operational drivers that we had in this process. Those being increased efficiency, a supportive solution, and open access to justice. Based on these key drivers in efficiency, we continue to have and create an integrated repository for all of the case data, this being a document-management system if you will. So it allows that integration. Again, we will continue to reduce our physical needs because as the old cases disappear, we can eliminate those as well. And we have reduced the need for paper handling. In terms of the supported solution, we will not have an aging legacy application. Those will no longer exist because we are Evergreen. We will continue to reduce the cost of support for the system especially as more courts in California go on it because we will continue to have other courts helping to develop different aspects of the Odyssey-based system. I won't go through every one of these but you can see in each that we have support at this point for California State reports in integration; we're still finalizing some of those. Those do take time. I don't know of anyone who has worked with DMV, but let me just tell you, it does take some time. We are well along the way, and we expect that all of these state reporting and integrations with the state reporting on every level including DMV, we believe will be fully integrated the summer. So hopefully even in June. And the open access, we are placing the court in a position to handle e-filing of case documents, perhaps someday the state will do what the state Oregon has done and

go to mandatory e-filing throughout the state. I will tell you that the e-filing system being adopted through here as well is one that any county that adopts the Tyler e-filing-based system, they can open that system and from their seat, wherever they may be, in this -- in their own state or county or some other country, they would be able to file in any of those particular counties that have adopted the county Tyler e-filing system. This will create tremendously improved web access for both the public and the attorneys, court users. Again, I have already spoken about document management. I mentioned what was important is the fact we've implemented, but we will continue. Our focus is on continuous improvement. The old system would be that you adopt a system, implement the system, the system then atrophies, you put it on life support for a while, and you plug along, and then replace it with the new system. That seems to be how normally technology systems go. I think all of you have had experience with that. That was not a system that we wanted. So we focused on a continuous improvement lifecycle. That's what the system we have adopted is. We have implemented, yes. We have started. We are live in every case type. Every day that goes by, every month, and every year that goes by, from now ad infinitum, it will be continuous improvement to the system that we have. The system will not atrophy. It will not ever need to be placed on life support, and it will never become what I call a legacy system. To do that, obviously we have to assess our current reality, which we will continue to do. We have to have the multiyear objectives, we have to plan for those multiyear objectives. We intend to set annual goals. We intend to implement and train on any new functionality, for instance if Orange County, when they complete their family law implementation, we would probably start training and implementing on that new functionality. We already have planned our next functionality, which is something called clerk's edition. With each step we need to measure the results and refine the process. I provided to you the measurable goals that we worked with Tyler to determine what is it we want to do as a court? I think these are -- this is a great matrix to help us look at how you set goals. The question becomes when you are implementing this type of system, how do I determine what my goal is each year? Where do we want to take the court each year? There are what we considered five levels of electronic componentry to this. And then there's also five divisions if you will of the system being the court, the operations, citizens, attorneys, and justice partners. Within those, we showed how each level of electronic access and electronic use would affect each one of these particular divisions. The point of this particular thing -- obviously I'm not going to go to everything on there in terms of how we measure those goals, but the important thing is that we take the time in each division so then you've got civil, family, --criminal, traffic, and you measure where you are on the scale within each division and within each level of electronic access to the point of where ultimately when reach the top in every division, you will be paperless. In this type of system, each county that adopts one will determine what their goals are each year. They will set their own goals. Some may do it across the board where they want to be at the same level in each division. Others may determine that they want to in the court division, reach full advanced electronic access and let the others wait until the next year. So each of us are able to determine how we want our goals to be met. And that's what we will be doing on an annual basis is determine what the next year's goal might be.

In summary, the implementation as I indicated is complete. We have implemented. There is no doubt about that. The process of transforming our court, though, is really just beginning. Because of the Evergreen solution and because ultimately the transformation of the court is to reach the best possible system we can have to continue to get us to a completely paperless system and to make access available to everybody, especially as our budgets dwindle and our resources dwindle. We have ongoing focus and effort on continually improving operations and continue to improve the value that we provide to the people that we serve. Our long-term vision will be continually assessed. We will assess it, we will set our short-term goals every year. Sometimes more than a year. And we will be able to continue to improve in this. I believe that as a result of this, we have real and measurable achievement and ultimately, that we have shown what we -- one of the smaller courts in the state of California -- were able to do. And I want to thank you for giving us the opportunity to do that, and for trusting us enough to do that, and seeing what I believe is a tremendous, tremendous success story. Thank you for your time.

>> I'd like to add, this is a really tremendous presentation. And again, you are an early adopter, just of another system. And this good work is going to be valuable to the other courts that are coming onto the Tyler system. There's a very active Tyler users group chaired by Robert Oyung from Santa Clara County, seems to be just about everywhere. And this will obviously helpful to the court. How many judges do we have on the council? Judges? They have a brilliant solution to the judicial screen that is completely intuitive, it's wonderful. Their judicial screen went live, what, two weeks ago or so?

>> It did in all the courts about two weeks ago. I've had it for about six weeks testing it, but they have a system called judges edition, which is -- keep in mind, this system is a Windows-based system. The particular screen for judges edition, it is as if you are looking at a paper file. You can obviously open every document, you can bookmark pages, you can highlight pages, search within a document, you can -- if you are looking to see everywhere if you are in civil, looking to see every case in motion that they cited a particular case, you can simply type in the name of that case and it will highlight every single place it is shown. And it will have a list of it. You can hyperlink to that and go directly to those locations. All those yellow stickies that we have, many of us have other colors. I have some lilac-colored ones. All of those stickies that we put on files and documents that we flag things with, you can do that electronically. And it's a very, very exciting thing. I have managed to do many a criminal calendar without ever touching a file. So it's been a wonderful experience that way.

>> Just one piece on that and then Judge O'Malley has a question. One piece on that. This is a touchscreen system. What you do -- if this is the way you want to approach it, you can approach it in different ways. If you want to approach a touchscreen, basically it's a graphic of what the top of your bench would look like. The files are stacked and you work through the files by touchscreen. Brilliantly intuitive. It solves a lot of problems that have been there with other systems where judges try to interface. And if you are a paper person trapped in a digital hell, it's a tough learning curve. And this is --

>> Makes the learning curve incredibly easy. If you don't like touchscreen, you can use a mouse with it too. The touchscreen is fantastic. And it is very user-friendly. There's multiple files within it. You can put cases in complete, waiting, put them in process or in progress. There's a lot of options on it. It would be hard to tell y'all about it without showing a demonstration, which we've done with a number of judges throughout the state to have come to our county to take a look.

>> Judge O'Malley?

>> Not a question, just a comment. I was on the council in 2012 when we approved the allocation to your court. One of the goals of that we were hoping for is that your court, through going through this process would be able to be the template, not only in the form and RFP but in every way possible, in sharing the knowledge and going through this process with other courts. And I'm just so happy that you have reached the goals of which looks fabulous -- looks like it's so nice for your court. And you are reaching out to other courts, going to be nice for other courts and you are going to be educating them on how you were able to do it and do it so quickly and efficiently. And what a great achievement for our branch. I just want to thank you for doing it quickly, doing it so well, and sharing with it. That's what we were hoping for when we approved the funds in 2012. Again, thank you.

>> I appreciate that. I will say that it was accomplished because we have absolutely incredible staff who put in countless hours. I can't even tell you how proud of our staff I am. And tremendous thanks to people at Tyler who are incredible to work with as well. Thank you.

>> Thank you, Judge Harman. That was a wonderful presentation. It's inspiring and hopeful for all of us. Thank you.

>> [Applause]

>> I wanted to mention before the Chief announces the lunch recess that we will have the RUPRO meeting, when you get something to eat, in the Catalina room, which is over in the corner in the direction that I'm pointing. Thank you.

>> [Laughter]

>> We are in recess until 1:20.

>> [Recess until 1:20 Pacific] 0.

>> We're going to take a matter out of order. We're going to hear item K, Trial Court Efficiencies, Task Force on Trial Court Fiscal Accountability Efficient and Effective Program Recommendations. This presenter is Judge Walsh. He has another commitment this afternoon. So I appreciate the other presenters' allowing this gracious intervention. So we can get Judge Walsh out of here.

>> Do I get special points for coming on time?

>> Yes. We welcome Presiding Judge Marsha Slough and Kim Turner, CEO of Marin. And we're waiting for -- he's not here.

>> There is.

>> Okay. Item K.

>> Thank you very much for this opportunity to present to this august group. And also thank you for taking us a little bit out of order. I apologize. I have to leave immediately afterwards because I'm on a panel in Berkeley with one of your colleagues. But we are here today to present the work of the task force that you appointed, the Task Force on Trial Court Fiscal Accountability. As some of you will recall, the funding workgroup that spawned the WAFM effort also said, not only look at equal allocation of monies around the state, but let's look at state trial court --

>> Can I stop you one second? I apologize. I'm sorry. This is an action item. Is there anyone here that wants to make public comment on this action item? Item K? Sorry. Go ahead.

>> Thank you.

>> Look how efficient we are.

>> That's right. [Laughter]

>> Jump right in. He's halfway to Berkeley.

>> That's right.

>> Look who has joined us. Lee Edmond.

>> Good to be here.

>> In response to that request, what about statewide trial court efficiencies? What about individual trial court efficiencies going statewide? The Chief Justice appointed a task force of, I have to say, talented and dedicated people. With me today just three of them, Kim Turner, CEO of Marin County; Lee Edmond, immediate past PJ of Los Angeles; and Marsha Slough, the vice-chair of our task force and PJ of San Bernardino. We are kind of yes people, we've decided, because we always say yes to everything we are asked to do. These are the busiest people I've ever been with. They've been great here. Basically, they are volunteers, volunteering their time to answer the question, what are the trial courts doing about efficiency? We had our first meeting in September. And we are bringing to you today the results of seven and a half months of work. We think you are going to like it. It wasn't easy. We worked very hard on it. And we decided when we had eight recommendations sent to us by this group to deal with reprioritizing, we couldn't do them all at once. And so we said, Marsha, how do we handle this?

>> We all know that when we are all out and about that we hear over and over that trial courts should be more efficient. It seems to be a recurring theme and, quite honestly, an appropriate theme. Are we being efficient with our precious resources? As a group, a very diverse group of members of this task force from very diverse counties, we had a great dialogue about that topic. And we discovered that we really are already doing a lot that is very efficient with our resources. However, what we're not doing is sharing that information very well amongst ourselves and sharing it with our sister branches. So we decided our number 1 priority should be to step up our efforts to be able to demonstrate what we are doing well so that other county court systems can leverage those efficiencies and take them to their own home courts.

>> So how did we do it? We basically took the members of our committee and broke down into six sub groups made up of either a PJ or former PJ, working with a court executive officer. And we signed each one of the subgroups a topic. For example, I was paired with Steve Nash, and our topic was civil operations. And somebody else had criminal and somebody else had technology. And that's the way we worked. We started to try to figure out what's out there in the trial courts. We used some of the resources that had already been gathered by the AOC. They had a lot of information for example, say, former KLEPS winners, other project they knew about. We sorted through lots of existing AOC records. Then in addition we went out and actually contacted trial courts: tell us, soliciting information, tell us what you're doing now that's efficient and makes sense that you want to share with the other courts. When we gathered all that information together, that's where we started our due diligence and tried to figure out what's really working well. We sent out to each court a basic question form that would be standardized for every court: tell us -- describe the project, what are the program benefits, who are the contact people? Then we went through those to try to figure out what made sense, to narrow the list to something that was manageable that we could do in this seven-month period that we had. We came up with about 75 programs that everybody will have access to. We don't hesitate to tell you that those are not all the effective and efficient programs out there. We can't even say those of the best 75, but they certainly were one that we came to decide were ones that are very, very good and make sense to have at least had a starting point. If when you look at these projects there's something in your own county that you think is a terrific program, we're going to set up a process by which you can make sure that your project gets in there so that this will be a living, breathing document where we add on efficiencies as we go.

>> We didn't just find programs. What did we do with them?

>> Not only did we find 75 promising programs, we also vetted those programs. What I mean by that is that the task force itself spend one entire meeting walking through all of these documents that we got from various programs that had submitted these interview templates to us. And we evaluated them to in effect answer the key questions: Where they efficient, where they effective? Where they innovative? And then since our group as a whole—we had a task force of 12 or 13 people—could not walk through all 75 programs, we actually subbed out that work to three of the CEOs that were on the committee: that would be Stephen Nash, Alan Carlson, and Mike

Roddy. They further vetted those programs. And they forwarded them to me. And I turned them into program summaries that you're going to see very shortly loaded onto our website. So the creation of the summaries really was an important starting point because what we wanted to do then was once we determined that Marin had a traffic program and Riverside had a search warrant program and so forth, we wanted to survey the courts to find out which courts had the same or similar programs, because that information is also contained in our effort. So we sent out a survey and have got wonderful responses from most of the courts letting us know whether or not they had programs that were like the ones that will be on this website. So even though you will see a sponsor court attached to these programs, when you scroll down through the program summary, you will find that in many cases, 20, 30, 40, sometimes as many as 40 other courts are doing a similar kind of a program, showing that we are really pollinating these ideas across the branch. Following all of the work that we did, Judge Walsh and I did take the initial findings and initial work to both TCPJAC and CEAC. And we've unveiled at least the embryonic project we'd been working on to make sure we had good buy-in from the PJs, good buy-in from the CEOs. And we took any comments that they had to heart and tried to build those things into our process.

>> They were very supportive of our efforts. So we have done a lot and we could not have done it without help from the AOC staff. I want to take a moment to compliment Jodi Patel, for all the help and guidance she gave us. She was there at every meeting all the time. Talk about somebody who says yes to too many things, she was always busy but always helpful. But I want to point out, Maureen Dumas, the kind of person you don't ever see at this seat, is Maureen here? She's the one blushing right now. Unbelievable work. Unbelievable work, all the way through. Never, I can't do it, always, always helpful. I also want to single out Mark Gelade from the Technology Office. Is he here? Great job! As he told me, When I first heard that some crazy judge wanted me to build an app store, and I thought, What!, he got into it, he's never complained, he's been there the whole time. And I want to tell you anybody who had our experience working with these people from AOC gets a chance to see the kind of talent and dedication these public servants provide every day. Willingly, they work hard, they work ably. We are blessed to have such professionals work with us.

>> [Applause]

>> So we're going to show you the Knowledge Center that we've created. But we're going to walk you through what we're asking you to do. There are five recommendations contained in our report. First, we will ask you to approve the full implementation of the Knowledge Center on Serranus. It's going to be inside the private website of Serranus, so you'll have to know your password, and create a similar site on a public -- a public site on the other side, a little less full. We are going to modify some of these because on the public site, they should show slightly differently. That's one. Two, we're going to ask you to approve creation of a TCPJAC CEAC working group to continue to develop the content on the Knowledge Center site. And we would propose calling it the Joint Trial Court Efficiencies and Innovations Workgroup. Three, we

would merge in two existing groups. This was talked about, Justice Miller may remember, when we presented our agenda for the year. He had the suggestion of maybe the task force and these other two groups might start working together and we have. Our suggestion would be -- and Kim, who is one of the cochairs of the Business Process Reengineering, agrees to merge Business Process Reengineering and Trial Court Efficiencies Workgroup, David Yamasaki agrees with that, he's the cochair of that. They're the ones who seek legislative efficiencies, merge them into a single group and have that be the umbrella group of this ongoing effort. The -- after we were created as a task force and according to the Governor's budget came out and said we want to see more trial court efficiencies, two weeks later, we found out the Chief was creating her Blue Ribbon Commission and has work for them covering, we think, many of the recommendations that we have not yet gotten to. Therefore you will see in a moment we're going to phase out. To have this effort, have credibility, to have continuity, true value, it still needs a home. And some staff, which I will get to in a minute. This is the home that we recommend you approve. Jumps us to number 4, people I've talked to are sort of in the corporate efficiencies business, yah, we tried this, we tried it at HP once but it failed because there was no custodian of the site. Nobody kept it alive. So what we need, we decided, is a custodian or a librarian of the site to bring new programs, to post them, to encourage their use. And so we need somebody good in marketing, and organizing, and we found them. Thank you, Jodi and Judge Jahr. Every time I told them we need more resources here, you should've seen the pained look on his face.

>> [Laughter]

>> Anyway, he finally said yes. We found it within the Trial Court Leadership group. Claudia, Marlene, and Deirdre, who worked with CEAC and TCPJAC, anyway, so we are asking you direct the Trial Court Liaison Office of the Trial Court Leadership Unit to provide staff support to the new working group. And five, with the creation of the Chief's new Blue Ribbon Commission, sunset the task force and return the remaining charge to the -- charges, those other recommendations, to the Judicial Council for reassignment. So cool to be on a task force where you are recommending you be sunsetted.

>> Would be through E&P?

>> This would be through E&P. Of course. I'm sure that's what I meant. We would amend that. So return the remaining charge to E&P. All right. Do we all agree?

>> We agree.

>> Thank you.

>> If approved, we're going to jump right on it. What we are showing you today a demo site. But it's almost fully locked and loaded. It will be final and ready to go out for showing by next week. And the reason we have that deadline is we have already set our panel to appear in front of

the CJA midyear next meeting next Saturday, the first public rollout of the site. So it better be ready. And then we plan to take it up to the Legislature to make some appointments and show them what we have. Going to the Governor's office. I know they're interested. We will then be taking it to the TCPJAC meeting June 5th, the CEAC meeting June 4th, and roll it out. It is now live. Use it. Here it is. And plan to continue that effort because it's not just creating it, but encouraging its continued use, incenting its use, which we think is part of our charge and we will do that. So of course like every program, we didn't have a parking lot, because that term was already stolen, but we have a phase two. A lot of things we didn't get to in our seven and a half months that we had to put off. Building out the public website more robustly. Allowing people to copy and paste and send the programs elsewhere. It's all doable. We will do it. We didn't have the time to do it yet. So through this I must say, we encountered the questions: Well, if we do this, some courts might be offended if we don't show theirs. They're going to have to get -- we could only do 75. Some of these are only appropriate for big courts or little courts. What if somebody thinks it's not legal? We vetted it with each individual court. So exasperated at one point, I burst out at one meeting, which became our mantra, which is Innovation Is Not for Wimps. And that was what guided us.

>> [Laughter]

>> We have to be bold. We have to do something to change the perception. What we honestly found out is there are efficiencies in our branch. Our branch is full of efficiencies. We hide our light under a bushel basket. We don't tout that. So this is part of what we're doing. We're not just sharing them, we're telling the world, we've been there, done that. And we're going to continue to do it. So with that, we're going to show you the Knowledge Center. My goal here was it would be so simple even a PJ could operate it. So I'm going to launch it here by --

>> Now we have tapped in.

>> Exactly.

>> This is the Knowledge Center. It is on Serranus. Whoops, we cycled forward too much. So let's go follow the breadcrumbs back. This is the face page of the Knowledge Center. Listing the first one, which we will show you, Effective and Efficient Trial Court Programs. Next one, State Court Efficiencies, I'm sorry, Statewide Efficiencies, and the final one, Business Process Reengineering. So, Kim, why don't you take us through the bottom one, Business Process Reengineering?

>> Thank you, Judge Walsh. As many of you know, I've been chairing with Judge Slough the Trial Court Business Process Reengineering Working Group for a couple of years. So what we have been promising to all of the courts that we've trained, we've trained 28 courts in these principles and how to use the analytical tools, we've been promising them that we would put together a resource, environmental resource page, where they can pull down curriculum that we've used in the training classes, they can view the videos. We've put together a Getting Lean

and Green video about a year and half ago to give people a primer in the principles of business process reengineering. We've also created all kinds of modifiable tools and templates that courts can use to go through the process of retooling a particular work area. So all of those resources are now out on this site. This site is live effective yesterday afternoon. So if you go to Serranus, you'll be able to find the Trial Court Business Process Reengineering resource page. We tried to also include some of the educational materials, because this is not a new thing. It's been around in the private sector for a long time. And we've managed to take those tools and morph them into a public-sector kind of a model. But there are many, many white papers and other educational materials that we think courts will find very useful as they embark on their own reengineering efforts. So I wanted to just alert you to this as being one of the components on -- in the Knowledge Center and one that we will continue to develop as more and more materials become available.

>> Thank you. Judge Slough was complaining we didn't have statewide efficiencies. Corey Jaspersen and many others got together a list and said, we sure do. What do we do with that?

>> We have a lot of statewide efficiencies, not just the things we do at home, but as a branch as a whole, things we've done. Just a couple of examples that will be on the website is the model jury summons. So you click and get to the model jury summons. We summons millions of people into court every single year. So the standardized summons was prepared and developed. Many courts use it to not only simplify the process of summoning those millions of people but also to educate the people that will be coming into our courts and the importance of that duty. So if someone on the outside wants to look at what we're doing with this program, they will have the ability to look and learn about this program. Another is our DRAFT program. That is the Dependency Representation Administration -- I can't read my own handwriting -- Funding and Training. The DRAFT program. It's a very important program that some 20 courts out of the 58 counties use to help with their dependency case hiring of counsel. It has allowed those courts to partner with the Administrative Office of the Courts to help in preparing the contracts that we enter into with those counsel. And I think if you go on the website and look at it, you will see the benefits from the statewide program, which has included setting standards for those counsel, caseload standards for those counsel, outcomes for children who find themselves in dependency court. And it's a really interesting program and really worth sharing with everyone.

>> Searching for the answer, do we have statewide programs? Yes. We've had them for years. There were 60 programs listed under that icon. All the ones that are currently in place, most of those, have a hot link. So you can do what Marcia just did. Hit the hot link, you've got the whole program right there, all within this one Knowledge Center. So then let's go back, follow the bread comes back, to the third icon. We're going to have a handout with this. I always forget my Serranus password. So we thought as a way of folks remembering this --

>> I think they handed them out.

>> You've got the card and they leave behind here. You can write your Serranus password on the back. Don't lose it now because it's going to bring you lots of good stuff. That's our app store.

>> We would have filled in your password if we were really efficient.

>> [Laughter]

>> We would have created an app store. You'll see the first page is all these case type icons: Family law, criminal, ADR, etcetera. If you want to about something in family law, click family law and there's -- let's try Robocall, something Santa Clara County just put in this year. In Robocall, we have one of those automatic dialers. We get the phone number from the self-represented litigants who often fail to show up. It dials them a week ahead of time. We have had a great increase in the number of no-shows as a result.

>> Decrease in the number.

>> Thank you.

>> [Laughter]

>> In my court, I'm the increased no-show. I'm never there. Good point. We've had a great decrease in the number of no-shows. So this is about efficiency. We expect this will save us money. But we also were charged with looking at effective programs. Effective, efficient, or effective to bring equal access to justice. So Lee Edmond, can you tell us about one of the ones in L.A.?

>> Just looking at one of the examples of the effective programs, if you click on the outreach button, go back to that app store, click on an outreach project, one of the outreach projects is a teen court that we do in Los Angeles. Many of you are familiar with teen court and how it operates. In Los Angeles, we have a specialized teen court called SHADES, an acronym for stopping hate and delinquency by empowering students. Basically it is specialized -- focuses on issues of bullying and hate crimes. What Kim is going to do for us here, when you get to the first page, it has just like Robocall, it has a description of the program, it has program benefits, it also then has materials, one of which is a video. We're going to look at the video in a second. I'm going to describe the program briefly while we fast-forward through this little advertisement that comes when you get some of these videos from say CBS News, you've got to sit through and unless you want to buy a pair of shoes, it's kind of irritating. We're going to talk about the program briefly until we get there. And let me say at that point, many of these programs actually have videos embedded in the program. So you can go in and actually watch the videos. We are going to do everything we can to try to get as many videos as possible that are actually unique to us, that have been created by the AOC, created by local courts. That way we can put it on YouTube and ensure that it lasts. With some of these news stories, they might take the story

down, we want to make sure that we keep it and obviously of we avoid the advertisements as well. But basically what SHADES is a situation where you've got someone who is accused of a crime that is based in bullying or harassment. And we focus this program -- because of the increased number of these sorts of problems in schools and increased incidence, and they are all much more I think serious than we've seen in times past because of technology and the fact that you can put things on the video and when they go viral, it's a real problem. I sat through a trial with a kid where some of the students in the school had taken his photo off Facebook. He was a Muslim, had his hair up, and they placed his photo right next to -- cropped it next to a photo of an airplane going into the twin towers. And they sent it to everybody on Facebook. You can imagine what that does to kids. So this is a moving program. Slight difference from a regular teen court, it is judged by a jury of their peers but these are kids who have actually gone through intensive weeklong program in tolerance training through the Museum of Tolerance, and then when the person is convicted, if they are, it's a six month probation period where they have a mentor who is a judge on the Los Angeles Superior Court and that kid has to go through the weeklong training with the Museum of Tolerance to be sensitized on issues of bullying. So we will very receive play this clip. Operator error. Hang on.

>> I don't know why we're not getting video.

>> There it is.

>> One of the teenagers is selected at random. Teams from various high schools across the country will decide the fate of two bullies charged with battery, case number 1.

>> Different friends always bothering me and call me gay. They keep bothering me and everything, then like I get tired when I go to school every day --

>> [Name], a teenager who lives in fear after a bully gave him two black eyes and has been verbally taunting him for months.

>> I'm sorry for crying because I'm upset about my son being bullied.

>> So you get the idea that there are videos attached to many of these programs that give you a better idea. Of course you got contact information where you can contact a local court person, find out who knows about the program, and hopefully find out the information you need in order to consider adopting it for yourself.

>> Kim? You do a Marin traffic program. We go to the traffic icon. Right?

>> Yes. Let me see if I can get myself there.

>> So there are 75 programs now? More later as we work further on.

>> So in the area of efficient and effective programs, in Marin, we tried to solve two problems. We have a lot of public frustration with people waiting in very long lines to go to traffic court, to

do very ministerial things like convert community service to a fine or get an extension on traffic school. And the other problem we were trying to address was the fact our clerks were very beleaguered by a lot of upset people waiting in line for hours and hours, finally getting to the window and being told they had to go to court and come back out and get in another line. So we spent quite a bit of time reengineering the way that we do our traffic matters, and in fact have now conferred many of the things that used to happen in the courtroom to the clerks at the front counter. So that we don't have to send cases into court unless a judicial ruling on something is required. So anyway, as you can see --

>> We're using this as a typical site. Why don't you walk us through? We list all the courts that have a similar site. See all those other courts -- don't forget, we are efficient out there. All these courts have this or something similar. And you would see that on each program site. We show at the top, the list of all materials. The ideal is you click and you can have it in your courtroom within hours, not days or months. We have a contact for the listserv, if this is related, which this one is, it has a listserv for traffic. It has a comment or proposal aspect. So someone can comment, what they think of it. Here's what we're doing differently. Here's a better idea. We also have an invitation on there, submit your own proposal. And that would go to the joint work group and if we approve it and vet it, put it on the website. Now, I went to the innovation program at CJ last fall and it was great. I saw this wonderful thing about electronic search warrants. Great. I'm going to be a night duty judge and I can stay in my pajamas and do a search warrant. Great idea. But when I got home to tell David Yamasaki about it, I didn't know who to contact. I knew something about the program. And now we are actually six months later, about to do it. But now, Marsha, we are a click away from that program of yours I saw.

>> That you are. It's really a great program and has proven to be very efficient for our county. We've all been there. Two o'clock at night, when you get the phone call from law enforcement, we almost have a warrant ready for you to sign. Thanks for waking me up to tell me that -- to tell me that you're *almost* ready. Some of you, maybe Judge Herman, remembers the days when they'd ride their horses in to your home.

>> [Laughter]

>> But I digress. San Bernardino County, through some great work through our technology folks and judges that are much more up on technology than others, developed this on-call warning. On the website, you can see the user guide that all of us judges were taught on how to use it. You deal with the warrants on your iPad or any other ability to access the Internet. So you can be on the golf course, your phone buzzes, you have a warrant in queue. Go to your iPad, turn it on, get the number, call the officer, you swear the officer, read the warrant, hit accept or reject. And it attaches your signature to it. It's a great program. And really efficient. Law enforcement loves it. And it also saves paper.

>> And if you approve this, this can be in your courthouse next week. You too can stay in your pajamas.

>> I should say that's after hours golfing.

>> [Laughter]

>> So, Chief, the one final thing we want to point out is you have appointed a great task force. It's important to show the province of this. Good people got behind this. So we created an icon. Just for today's presentation. It's a picture of Einstein. What we call our smart people icon. These are the lists of the people on the task force. Also, if you approve it today, we want to show another group of smart people. That's you.

>> [Laughter]

>> That's our presentation. Thank you.

>> Some sales job.

>> [Applause]

>> [Laughter] Well, I think someone has beaten us to the punch here. Judge McCabe?

>> Thank you, Chief. It was a privilege to work with this group. First, I second what Brian had said or Judge Walsh had said about AOC staff above and beyond, extraordinary. And what we asked them to do and the timeframe that they did it is truly remarkable. There's some other unsung heroes, though. Judges like to think we understand the court and all the complexities, but the CEOs do understand. And we had some really talented people. No offense to the judges. I really respect the folks that are on there. But the collective wisdom in the CEOs that we had was phenomenal. I was in awe to listen to them talk. And it reaffirmed my belief in the judiciary. The government continually is viewed as archaic. And I heard nothing but 21st century innovative, creative thinking. It was -- I was just awestruck, sitting there listening to that. And to come up with what we did and the timeframe that we did, knowing that we are going to be sunset it, which may be a history, this committee did what it was tasked to do in a very short time and is now asking permission to be put to bed, I think speaks volumes. I, therefore, move to adopt the five recommendations.

>> Second. Judge Nadler. Judge Jacobson. Any further discussion? We're speechless. Amazing. It's an amazing presentation. For all of us who like to be engaged, who are tactile, you're going to see us reaching out, trying to touch our computer.

>> [Laughter]

>> I think the hardest part about this project, frankly, is for all of us trying to remember our Serranus password.

>> [Laughter]

>> That's the same thing.

>> I forgot about that.

>> I have a question or comment. We need to get this out.

>> Exactly.

>> I'm aging presentation.

>> To the LAO. To the Governor, to the Legislature. Please.

>> [Laughter]

>> We need to get it out. This is amazing. Just amazing.

>> It is. I'm going to take it to the Conference of Chief Justices and brag again about it. So all in favor of adopting recommendations 1–5, please say aye.

>> Aye!

>> Any opposed? Thank you.

>> [Captioners transitioning]

>> Way to go.

>> Wonderful.

>> Okay. David.

>> I just wanted to make one point. Many of you had an opportunity to see the energy of Judge Walsh.

>> Yes.

>> I encourage you to keep appointing him to new committees to keep him away from me. Thank you.

>> [Laughter]

>> Okay.

>> [Background talking]

>> Welcome our next group of presenters, item G -- I'm sorry, I'm on the wrong items here. I. Judge Jahr. We welcome Administrative Presiding Justice Brad Hill, Justice Johnson, Judge Lucas, and Judge Feng.

>> Thank you very much. Just before you begin, this is item I. Is there any public comment with regards to item I, AOC Judicial Branch Capital Program Offices *Capital Program Management Manual*? Any public comments? Thank you.

>> Thank you very much. That's a tough act to follow. We will try, Chief and members of the council. For once I am delivering some other than bad news about funding balances and the lack of courtrooms and courthouses but instead reporting on our progress and several key initiatives that we have been working on this past 18 months. Initially, however, I would like to thank two groups of people. First, the members of our advisory committee. I am truly very, very fortunate to work with an extremely talented and dedicated group of individuals, all of whom who have worked hundreds and hundreds of hours making extremely tough decisions under very difficult circumstances. These judges, court administrators, attorneys, city and county officials, architects, all of them deserve a great deal of credit for all that has been accomplished. And if you'll indulge me for once brief moment, I'd like to mention the names of the individuals who worked so very hard with us over this past several years. Obviously we have our vice-chair, Judge Pat Lucas, who has been such a great help and she's also served as chair of the Audit Oversight Subcommittee. Justice Jeff Johnson, who serves as chair of our Courthouse Cost Reduction Subcommittee, and who has done a wonderful job. Judge Sam Feng, who chairs our Subcommittee on Courthouse Names, a difficult subject matter and a difficult and thorny area that he's put together a great proposal on that he'll be presenting to you shortly. Also as members of our advisory committee, Michael Bocchicchio. Formerly, he was the associate vice president of the University of California system and a former state architect of California. Judge Don Byrd, assistant presiding judge from Glenn; Tony Caposi, a former member of this body, former state bar president, and an attorney in Fresno; Steven Castianos, also a former state architect of California; Judge Keith Davis, from San Bernardino; Judge Robert Foiles, PJ from San Mateo; Ms. Melissa Fowler-Bradley, the court executive officer in Shasta; Judge William Highberger, from Los Angeles; Judge Laura Masunaga, the presiding judge in Siskiyou; Steve Nash, CEO in Contra Costa; Judge Gary Orozco, from Fresno; Judge Power, from Solano; Ms. Soles from Merced, a court executive officer; Larry Spikes, a county administrator officer from Kings; Kevin Stinson, an assistant clerk administrator of the Court of Appeal, Fourth Appellate District; and finally not -- actually, not finally Val Topenberg, who's currently a consultant, used to be a redevelopment director in Merced and in Sacramento; Judge Trentacosta, from San Diego; and Tom Warwick, an attorney in San Diego, who also was a member of this body. A tremendous group who really have from day one stepped into a situation that was difficult. As I've explained to some others, we really were forced to make tough decisions and they took their job very, very seriously going through literally tens of thousands of pages of documents, something that we all appreciated a great deal. In addition, I want to thank and commend the staff. It sounds like I have

to get in line to commend the AOC staff but I will say that Judge Walsh doesn't have a corner on great staff work. We have an absolutely wonderful staff who have done just superb work over this past 30 months. Bill Guerin, Kelly Quinn, and all of the dedicated and wonderful people at the Judicial Branch Capital Programs Office, who have given so much to this program. I could list all of their names and wish I could. They have all worked so hard. In addition, Curt Child and Judge Jahr have worked so hard for us every step of the way. All of them, whether it's morning, noon, or night or weekends, have been there for us because oftentimes we've had to make a decision with quick turnaround. We couldn't do that without that wonderful staff work. I know that out our meetings our public members, our attorneys, and our judges and court executive officers have been extremely complimentary of staff. But you haven't been able to hear that. And I think you need to hear just what a wonderful job they have done. It's been quite a run. Over the past 30 months or so we're proud of our accomplishments. We couldn't have done half of what we did without that staff. Let's give them a round of applause.

>> [Cheers]

>> Shortly after our committee was formed, I reported to you that we were planning a top to bottom audit of the court construction program to ensure that our program was operating as efficiently and effectively as possible. We didn't want any surprises or revelations as we started our work. If there was something that needed to be corrected we wanted to know it now so we could take those corrective measures and institute best practices. We selected an internationally known firm to conduct this review and Judge Lucas will shortly be updating you on the implementation of their suggestions and recommendations. Also at the outset, when I reported that we were creating the Courthouse Cost Reduction Subcommittee, I indicated that that name was chosen for a very specific reason. Costs weren't just going to be reviewed; they were going to be cut. We definitely weren't just going to be nibbling around the edges and calling it a day. In two years this committee chaired by Justice Johnson has served and saved I should say hundreds of millions of dollars. He will be reporting on their efforts over the past 18 months in just a few minutes. Finally Judge Feng, who as led the effort as chair of the Courthouse Naming Subcommittee, has developed a clear and understandable policy for the naming of courthouses in our state. This is an area as you all know that can be politically sensitive and he's done a wonderful job with his committee to put together a proposal that makes a lot of sense and that will serve us in good stead for decades to come. At this time I'd like to turn it over to Judge Lucas to talk about the audit and the implementation of those recommendations. Judge Lucas?

>> Thank you, Justice Hill. Good afternoon, Chief Justice and members of the Judicial Council. Justice Hill has mentioned the Audit Oversight Subcommittee and some of the work that we've done. We got under way in the fall of 2012 and our commission was to undertake a top to bottom audit of the judicial branch construction program. The first thing our subcommittee did was to develop a scope of services for the work, which needed to be comprehensive and look into every aspect of the construction program. We hired Pegasus Global Holdings, which is an international consulting firm, with extensive experience doing exactly what we want them to do, which is to

look at a very large construction program, to look at the infrastructure and all aspects of it and to give us recommendations based on their experience. Pegasus worked closely with our subcommittee as they moved through interviews of the management staff, reviewing the internal processes and procedures and comparing our practices with the best practices worldwide in the construction industry. Pegasus developed 137 recommendations, which were posted for public comment and adopted those recommendations in October of 2012. Those recommendations reflected the breadth and depth of Pegasus' analysis of our program and its management. Pegasus also identified several priority recommendations. One of those priority recommendations was to write and adopt a program management manual that would develop and standardize policies, procedures, and work flow approvals to ensure accountability and consistency throughout our program. Specifically the capital construction program would be organized, staffed, and managed effectively and efficiently to deliver the \$5 billion courthouse construction program. In making the recommendation to develop the manual, Pegasus recognized that the manual itself would address about half of their other recommendations. So approval of the manual will allow the Capital Program Office to comply with many of the other recommendations that Pegasus offered. The approval will also provide for the necessary delegations and directions to comply with the remaining recommendations from Pegasus through the completion of the project execution manual. As soon as the council adopted the findings of the audit report in October 2012 we began work on the manual. At that time it seemed like a big job, and it was. Since the staff as well as the subcommittee members also have day jobs, it took really an extraordinary commitment to reach this point. Completing the program management manual is a major accomplishment for the subcommittee and for staff who worked literally days and nights and weekends to meet the deadlines. This afternoon I'm very pleased to bring you this foundational document for our construction program. The manual provides the policy-level framework for strategic management of the construction program made up of all its individual projects, of which there are now 31 active projects valued at \$3.8 billion. The manual provides a comprehensive management and control system, which is necessary to allow the AOC to execute the program under a unified structure, a complete set of policies, integrated funding, and a clear set of financial processes. In other words, to accomplish the goals of accountability and consistency as to which we set out to do. The manual clarifies responsibilities for each major aspect of the program, governance, and management from planning and financial aspects to design and construction. It provides the overall policy direction on which the more detailed procedures will be finalized. It provides a context for understanding the staffing requirements needed to carry out the manual to ensure successful completion of the program with minimal risks to the branch. It establishes the controls necessary to ensure that the risks associated with the capital program and each project are identified, analyzed, and managed in an effective and transparent way. It establishes clear guidelines in alignment with industry norms for managing contract retention, change orders, and claims. It provides a clear directive on document control and document retention. To develop the manual the subcommittee drew on broadly recognized bodies of knowledge in the construction field from around the world as well as the

practices of other large and successful public works programs. Before I ask the council to approve our recommendation, I would like to take a moment to echo Justice Hill's thanks and to recognize the management team of the Capital Program Office and in particular one individual who deserves special recognition. Jim Mullen please stand up just for a second.

>> [Cheers]

>> Jim is the lead staff to our subcommittee and he's literally worked around the clock for months to get us to this point. Jim is the Capital Program Office's senior facilities risk manager and leads the risk management and inspection efforts. He assumed the lead role in working with Pegasus as they prepared the audit, then he worked closely with our subcommittee on developing the program management manual. Both assignments, that is leading the staff effort on the audit and then leading the staff effort on the manual, were very challenging tasks, which Jim took on with great success on top of his day job. So thank you very much, Jim, for everything that you've done to get us here today. With that I'd like to address our committee's recommendation.

>> The Court Facilities Advisory Committee recommends that the council approve the Administrative Office of the Court's *Judicial Branch Capital Program Management Manual* to guide the strategic management of the judicial branch's courthouse construction program. Thank you.

>> Any questions or comments regarding the recommendation? Justice Miller.

>> I have a motion to approve the recommendation.

>> Second by O'Malley. And I think Judge Nadler was also going to say that.

>> I have a comment.

>> Go ahead.

>> As someone who has been made aware of the some of the complexities of the construction process, a judge coming face to face with construction, I had no idea about the complexities of it. I think that this project is a fabulous project. I really give each of you a lot of credit for doing it. I think it's one of the best things that our branch can do in light of the tasks that we've undertaken. Thank you to all of you.

>> I think this is a very proud day. I remember when I first became Chief and I knew there was a \$5 billion project out there. I can't tell you my concern over that, and not knowing enough about it, asking you fine people to give your time and become experts and create this predicate foundation for the safety of our program and its integrity and hearing what you said today and knowing as being kept abreast of how the Court Facilities Advisory Committee has operated, I'm truly grateful and proud of the work you've done and continue to do.

>> All in favor of recommendation number one to approve the manual say Aye.

>> Aye.

>> Any opposed? Matter carries. Thank you.

>> Thank you.

>> [Applause]

>> Thank you very much. We'll turn to Justice Johnson to talk about the courthouse cost reduction efforts.

>> First, we're going to ask if on item J, which is the Revised Courthouse naming policy, correct?

>> We're on cost reduction.

>> I may have reversed it, but we don't have an action item for Justice Johnson. I jumped in too soon to put in good news while you catch your breath and then we'll have another vote on the naming policy.

>> Thank you.

>> Thanks.

>> Thank you, Justice Hill.

>> Good afternoon Chief Justice and members of the Judicial Council. As Justice Hill – indicated, I chair the Courthouse Cost Reduction Subcommittee. As you may have heard, the members take their charge seriously, to save money wherever possible to maximize the long-term cost effectiveness of each construction project. This is a balancing test, one that requires review of many factors that together creates the design of a new or renovated courthouse. We diligently work as a very effective team on both the program and project level to reduce the cost of the capital program. I'd like to take this opportunity to publicly thank the members of the subcommittee, who have devoted hundreds of hours to prepare for and attend 14 meetings since February of 2012. Many of them two-day meetings. At these meetings we developed a protocol to review the scope and budget for projects, created programwide metrics to reduce the size of the new courthouses and refine site requirements and reviewed 26 projects. Our efforts have been fruitful. To date, the 26 projects we have reviewed have a construction value of about \$1.5 billion. From the diligently work of the subcommittee, I'm pleased to report we have reduced the project budget by over \$360 million saving, both hard construction costs and other project costs such as fees, site acquisition, and other areas. Every dollar counts. To achieve the substantial reduction in budgets we reviewed how each project has accomplished the hard construction cost reduction mandated by the Judicial Council in 2011 and 2012, often going back to each project team and asking them to tighten up the project scope and budget just a little bit

more. I know that our efforts have probably rendered unlikely my nomination for the title of most popular justice.

>> [Laughter]

>> I'm willing to accept that consequence for the good of the people of the state of California. We've developed metrics to refine the total number of parking spaces specific to each project, which in turn often results in reduced site size. Reduced site size along with reduction in landscape space results in significant savings. We've also developed a standard for in-custody holdings that has allowed us to reduce the number of holding cells in each courthouse, saving a substantial amount of money in these very expensive spaces. Our mission is simple: reduce the overall costs of the construction projects. We work hard to make sure we're using scarce construction funds wisely. Money saved on current projects have helped us keep as many projects moving forward as possible, giving the one-time and ongoing funds to the construction funds that started in 2009. The money we have saved on funded projects has resulted in more funds available for all the projects that currently have no funding available. I look forward in the future to reporting on additional cost reductions. I thank you for your time.

>> Thank you, Jeff, very much. Now we'll turn to Judge Fang to talk about the courthouse naming policy.

>> Thank you.

>> Wait, wait, wait.

>> Wait a moment.

>> I'm going to correctly jump in this time.

>> That's right.

>> We're calling item J, Courthouse Facilities Revised Courthouse Naming Policy. Anyone here to make public comment? All right. Thank you.

>> I'll get this down.

>> Thank you, Justice Hill, for your remarks and good afternoon, Chief Justice and honorable members of the Judicial Council. As Justice Hill indicated, I chair the subcommittee on courthouse names. Thorny as it is, I think it's a wonderful subcommittee. We have worked very hard to review the policy and revise it. About five years ago, when the construction program was just beginning to pick up momentum, the council's Executive and Planning Committee adapted an interim naming policy. We have a lot of good reasons to revisit this policy at the present time. We have a lot of new courthouses that are in construction, and with the anticipated stabilization of our construction funds in the upcoming budgets, we have nine projects that will begin design next fiscal year. The members of the subcommittee and I have met several times in the past year

to take a fresh look at this interim policy. With the assistance of ALC staff, the subcommittee and we developed several goals in crafting an update in the interim policy. First, we wanted the policy to continue to provide consistency and uniformity in how courthouses are named. Second, we wanted to reconsider the policy that courthouses can be named after living individuals. Third, we wanted to out-fund a process for naming courthouses that would be clear and up to date. Lastly, to ensure that new courthouses were clearly identified as California courthouses, which returns us to the primary goal of access to justice for everyone. The recommended naming protocol is quite simple. There are two options for naming a courthouse. One, a courthouse can be named in a standard way that identifies the location of the courthouse and the case type, if desired. An example of this is the Santa Clara Family Justice Center, which is in the first nine months of its construction. This type of name is very user-friendly and is expected to be how most courthouses are named. In fact, this afternoon we will ask you to ratify a list of 21 standard names of courthouse that have been completed or are under construction. Two, courthouses can also be named after a deceased person, although this type of name is expected to be used in very rare cases. The bar is set very high and we think appropriately so because the courthouse is every community's iconic symbol of the rule of law and the foundation of our democracy. Page three of the policy lists the criteria each of which must be met to name a courthouse after a deceased person. I will read them now. One, the person made recognizable significant contributions to the state or national justice system. Two, the person shall have been deceased a minimum of 10 years. We believe 10 years is a reasonable period of time to accomplish the individual's character, within which unknown facts would come to light. His or her reputation of honesty, integrity, credibility and any improprieties will surface by them. This time frame is consistent with the 10-year practice-period requirements for consideration for judgeships in our state. Three, the person or the estate of the person or any otherwise related entity deemed to pose a potential conflict of interest by the subcommittee does not have any case pending before any court and no such court is reasonably likely to come before any court in future litigation. Four, the naming does not present a potential conflict of interest as may be viewed by the public, governmental entities, and/or private businesses. Five/last, the naming is consistent with the California Code of Judicial Ethics. Examples of deceased persons who could meet these criteria are, one, a former president of a state or local bar association; two, a trial court judge, an appellate court justice, or a state or federal legislator; three, a former Governor of California; a former Chief Justice of the California Supreme Court; and, five, a member of the United States Supreme Court. Now, turning to the process of naming, it's very straightforward. Requests are sent to our subcommittee; the subcommittee will evaluate each request. In the case of standard names, the policy proposes that the subcommittee chair is delegated to have the authority to seek ratification of name directly from the Judicial Council. In the case of naming a courthouse after a deceased person, the subcommittee will make a recommendation to the Court Facilities Advisory Committee, which will in turn make a recommendation to the Judicial Council. The last part of the proposed policy relates to our goal of clearly identifying our courthouses as California courthouses. Again, we return to our goal of access to justice for everyone in our state. What we

propose is very straightforward. First, signage and plaques must comply with the requirements of the *California Trial Court Facilities Standards*. Second, each exterior sign shall indicate “Superior Court of California, County of, and the Great Seal of the State of California.” Before I close with a request for you to adopt our recommendations, there’s a special person I’d want to thank in public. That is Rona Rothenberg. She’s a senior manager of design and construction. Rona is the lead staff to the subcommittee and works closely with me and members of the subcommittee while she is also actively managing a dozen projects in design and construction valued at \$1.6 billion. Rona is not only an integral part of my subcommittee but also a friend. I consider her advice invaluable. She’s wonderful as a person. She comes to my chambers in rain. There’s no one that would do what she did. Not only that, I want to thank Bill Guerin and Kelly Quinn for their advice, Chris Magnusson, and everyone that has worked with the subcommittee. I will tell you, it is my privilege and my subcommittee’s privilege to have these wonderful and talented people to work with us. Without them I’m a ship without any steam, I’m a boat without a rudder. She’s -- I call her up all the time, Rona, what are we doing? I had to text her today, what time is the meeting? It’s been moved three times. She said, let me find out from Chris. Rona, you are absolutely wonderful, and Kelly and Bill, your advice is invaluable.

>> [Applause]

>> Now to close, the Court Facilities Advisory Committee recommends the council adopt the revised courthouse naming policy and approve the standard names of new courthouses that are completed or presently in construction. I do want to call out that just the week we have refined the list of standard names of new courthouses that are completed or in construction, which is captured in the revised attachment to the council report that’s been made available to all of you. Thank you.

>> Judge Rosenberg.

>> Great report. Thank you.

>> Thank you, judge.

>> A question regarding attachment 2. I don’t know if we have the latest revision. The one we have says dated April 25. I imagine that’s the latest?

>> I believe that’s the latest.

>> When I go back to page 4 of the report, I see that there is considerable consistency in the names under D2, for example, Superior Court of California, County of blank. But when I look at the list, it’s attachment 2, I see minor but noticeable differences. Is it your intention that these be the names listed in attachment two or is it your intention that the names follow the track shown on page 4, D2?

>> My understanding is to follow page 4 and D2.

>> Let me just you an example of what I'm talking about. When I look at attachment two, Superior Court of California, County of Sutter, and then below that, Superior Court of the State of California, Yolo County. If I go through the list, I see variations. You're not going to do that, you're going to follow the example shown in D2, which would be Superior Court of California, County of blank?

>> Yes. That is absolutely correct.

>> I think that is probably the better way. I think someone is trying to get your attention?

>> I just want to say two things. Can everyone hear me?

>> Come to the mic. Thanks.

>> I just want to clarify. I'm Kelly Quinn. I'm the assistant director for the Capital Program Office. I just want to clarify that what you have in your binder is not the updated sheet that Judge Fang referred to, and I'm not sure if that was distributed. It was sent by e-mail so I'm not sure if everybody is up on their e-mail.

>> The one we have is dated April 25.

>> We have an update. If you didn't get it by e-mail then the updated version is in the e-mail.

>> Does the updated version follow the format shown in D2?

>> Not necessarily in every case, but what we did do just this week is we confirmed the names used in practice, which may vary from what's on the building to make sure that these names were accurate and reflect what the practice is in the court.

>> Okay. Pretty close.

>> Very close.

>> Okay.

>> Justice Miller?

>> Again, I want to commend you. This is a difficult task. I know all the work that you've put into it and the controversy associated with it. You should all be commended. It's a great product and great process. I move to adopt the recommendation?

>> Second.

>> Judge O'Malley seconds. Any further discussion regarding the recommendations 1 and 2 in item J? No hands raised. All in favor, please say aye. Any opposed? Recommendations carry. Thank you for your hard work.

>> [Applause]

>> Thank you for all of your support. We appreciate it.

>> Thank you.

>> Okay. K has been taken care of. That brings us to item L on the agenda, Judicial Branch Administration, the Audit Report for Judicial Council Acceptance. We welcome Justice Huffman and John Judnick.

>> Is there any public comment on item L, Audit Report for Judicial Council Acceptance? There isn't any.

>> Thank you, Justice Miller.

>> Thank you, Chief Justice, members of the council. The Financial and Advisory -- the financial and -- let me see. We are the Advisory Committee on Financial Accountability and Efficiency. Under the rules that you function, we are responsible for reviewing all of the audits of the ALC, the various different parts of the court system including the trial courts. In the system we function under the internal audit services as an ongoing audit of each of the trial courts as well as the other parts of the branch. A normal process you have adopted is those audits remain pending and not public until such time as they've been presented Judicial Council and accepted. The role of the A&E committee is to review the audits before they're presented to you. We view our task as to make sure that the audit is not only complete but that by complete we mean that the trial court or other entity has had the opportunity to review the recommendations, has been followed up with the auditor, and we are sure that the areas -- or the problems have either been corrected or on a reasonable track for correction before we put them on the public website so that we don't put out on the website a bunch of potential problems to which there is no offered answer. For the most part, these audits are well done, very routine, and our committee reviews them. Once we're satisfied the questions have been answered, we send it to you on your discussion agenda so that you may accept it without discussion. Once in a while we find issues that we need to bring to your attention, either issues of we see systemic issues that we've brought to you in the past or, in some instances, what we perceive as problems. In this particular instance we're dealing with the audit of the County of Yuba Superior Court, a small court. Why have we brought it to you? The reason we have brought it is several-fold. This audit was done in August of 2013, reviewed with the court by November of 2013. I ultimately presented to the committee in January of 2014. The problems we face with this particular court is a very large number of fiscal problems and accounting problems with the handling of their affairs. By the time it was reviewed in November, only a small portion of those had been corrected. When it was presented to us in January, we sent the Internal Audit Services back to try to find out why we can't resolve the large number of these and, through that process when we reviewed it in February, they had only handled a few more. The reason we present this is that it does appear to the committee that the Yuba court has substantial problems in being able to handle their accounting issues and to

bring to your attention in part the roll of the AOC. Some of the accounting issues—and John Judnick from the Internal Audit Services is here and he will review very briefly with you some the type—but among the things, for example, is depositing the money in the wrong account, mischaracterizing the nature of the funds in which the money is deposited, not reconciling trust accounts, financial accounts. Our concern is that the branch not find itself at the end of the day with the California State Auditor saying what are you doing? You don't know how to run your shop. We believe that's the roll of the judicial branch to help out where we can with those issues. Part of the problem Yuba County has is the deputy CEO that had accountable capability left, has not been replaced, and there's no plans that we know of to replace that person and no one in the staff that appears to have any accounting experience to start with. We are not making a lot of progress and we don't have a great deal of hope of much progress. Now what's happened is the AOC, Trial Court Services, has stepped in. They are moving the court to the Phoenix system as far as payroll. We know that they are involved in obtaining hopefully a new case management system, and maybe those things will help. There still doesn't appear to be a likelihood of grasping the problem and dealing with it. You're going to require a continuing period of AOC assistance to that court. There's also a problem with try distribution of money. To comply with state law, there are a lot of complex formulae that require you to distribute money. If you don't, eventually the controller is on the court of the judicial system for why aren't you distributing the money correctly. Case management systems clearly impact this because that is the method by which you make these distributions. They haven't been done correctly. And also sometimes as you've seen, relationships as courts have separated from the county, they really haven't separated in smaller jurisdictions where it's been harder to establish those services. There's one relationship issue we bring to your attention. The court there has contracted with a third party to do collection services not just for the court but the county itself. They did that and they get a percentage fee of the money they collect for the county without any cost-benefit analysis as to how much are you spending in order to collect the county's money in order to get your 10 percent fee. Are you actually spending the court's money to collect the county's bills. They don't have an answer to that. They are going to do it. We sincerely believe the court is in good faith and wants to do the right thing and know losses have occurred in the process. Those are some of the issues that we've faced in looking at it. Such things as travel, meal expenses, not having any proper method in place to actually have the prior authorizations and subsequent reviews of those. The Internal Audit Services has worked extensively with them. Curt Soderlund has worked with them; Judge Jahr has been with them. They still have advertised for another deputy CEO with accounting experience. This is one of those cases that when you post it on the website, you can't post it with the belief that the problems have been solved or are reasonably going to be solved. On the other hand, we've reached the stage where we believe the—we recommend to the Judicial Council that you accept this report and post it on your website but you do so with the knowledge that you are going to provide resources to the County of Yuba and it's going to be a burden on the AOC staff in order to help them with their accounting, payroll, case management system, and other issues. With that, let me just ask John Judnick to move as quickly as we can through some

of the items. For me to try to explain to you would be like having the people in Yuba explain it to you. That wasn't nice, I don't mean that. John.

>> Thank you, Justice Huffman, Chief, Judge Jahr, council members. I'll go through it fairly quickly for you. Justice Huffman kind of summarized many of the issues. This is a small court, five authorized judgeships, two locations just north of Sacramento, small budget. This is not a financial issue where we're talking about irregularities. This is a control of the operations issue and an accounting issue in terms of their financial reporting. High-level issues, Justice Huffman talked about it a little, the accounting for financial transactions. We identified issues of improper reporting of trust and agency funds. The enhanced collections area, cost benefit, where the court is probably spending money to do additional work of the county and not getting repaid for that. Significant issues, the lack of reconcilements of trust accounts, very serious issue fiduciarily responsible. Court's expansion in the enhanced collections work, no cost-benefit. Collections and distributions, we've talked historically about that. There's a lot of work in this area being done. It is an area where the court doesn't have the proper people doing the work. They have not, as one example, implemented timely changes in statute to properly distribute the money. Travel and business meals, as covered by Justice Huffman, six repeat issues. We have travel documentation deficiencies. Accounts payable review not being done properly, lack of documentation to appropriately document things. Authorization matrix, which has come up on the California State Auditor's report. The information systems area referencing the California State Auditor's report, there are contingency plan issues, and there are other issues we will deal with separately in a nonpublic management letter to the court because there are items of sensitivity there. Civil assessments were not being assessed, which impacts the revenue of the court. In the cash collections area, we had standard issues and high-risk areas concerning voids in manual receipts. Procurements and contracts, very typical issues but very sensitive issues in terms of missing transactions and missing documentation. On February 25th of this year Judge Jahr visited and talked with the court about matters and told the court that the Trial Court Administrative Services Office was available to assist the court. The court took advantage of that, and the Trial Court Administrative Services Offices and Internal Audit Services have assisted the court on a repeated basis. Visits to the court to assist them, the court visiting TCAS in Sacramento for a day, two days for training, to get up to speed. That just occurred last week. We helped them with distributions on a visit to the court with three individuals to assist them in learning distributions and to do it properly. The court executive officer has indicated that the court is making all efforts to correct the audit issues he feels they will correct them over time. He also recognizes that the resources of the court and the current accounting expertise limitations of the court are there and need to be corrected but there are no current plans to acquire that expertise for the court. As Justice Huffman indicated, they have to rely on the AOC, TCAS, and Internal Audit Services for a while to do that.

>> Justice Hull?

>> Thank you, Chief. On that point, before we get too far down the road, if I heard Justice Huffman correctly when he touched on that point a moment ago he said the court has no plans but that it was not a matter of finances or revenue. If it's not a matter of that, why don't have they have some plans to put something in place to correct these things as opposed to drawing on AOC staff?

>> Justice Hull, let me offer my perception that I don't think the court appreciates the nature of the problem. I don't think the management section of the court appreciates the nature of the difficulty and has said they were doing to do it over time and let things play out. I think the problem is simply one of not grasping the significance of these accounting errors. There's one problem I saw in there that I failed to mention with regard to their case management system, for example, on submitted cases. There's a number of cases that you'll find in our report where the judge did not get the decision made in 90 days because the method of calculating used by the court staff was in error. One might wonder why always at the 90th day. But my point is it has consequences. It's not a funding issue as we can understand it. It's not.

>> Well, this is a general question for the council and Justice Huffman for your committee. How do we impress upon them that it is important?

>> One of the things we did is deliberately place it on the Judicial Council public meeting agenda. AOC staff invited the court and the court executive to appear and participate. They haven't. Judge Jahr has been there. It's beyond the ken of my committee to say to you this is what you ought to do. My job is to make sure you know what happened and where you are before -- and what questions that Justice Hull is asking are legitimate questions the Department of Finance could ask, the Governor, and the Legislature.

>> Judge Jackson?

>> It sounds to me that they have no incentive. If we're going to step in and take care of this, they have no incentive to hire someone to do this. Our resources are very strapped. Maybe to give them that incentive, can we bill them for this? If they're going to be using AOC staff, is there any way that they have to -- I don't know if that's possible?

>> Well, let me -- I think this is a forum to air all ideas. We want to keep in mind that the purpose of bringing it here today is to accept the audit. I think, of course, we have another larger issue to deal with separate from putting the audit on the website. I appreciate, certainly, the concerns, absolutely. I think Judge Jacobson and then Justice Miller.

>> Very briefly. We dealt with something analogous with the court that decided to stop doing small claims while they continued to charge people for filings. Just crosses my mind.

>> [Laughter]

>> I'm fully aware of that situation. Justice Miller?

>> So everything that you've talked about concerns me and concerns all of us. My suggestion is going to be that we can certainly accept it and make a motion to accept it but it should be broader than that. Or maybe it's a secondary motion that this be a sign to Jody and her staff to work in conjunction with E and P with a report back to the council.

>> First let's take the recommendations -- oh, go ahead, John.

>> Just a quick comment for Justice Miller's sake. Audit does follow up and will continue to follow up every six months to determine status of corrective measures as we do with other courts. We will report that to the executive office and to the A and E committee. That's part of our regular charge. Obviously, this is a somewhat unique matter in that we ended the audit six months prior to bringing it to A&E. We had 111 issues. There were 36 corrected, and they had only in six months corrected 18 more. Our follow up will give you results but I think you're correct if you --

>> My motion is broader than that. Rather than just to have the follow up it's to work with Jody's staff who will try to work with them to correct them and also work through E and P to ensure that process is being made.

>> Yeah.

>> Mary Beth.

>> This is my neighbor court with whom I do have a friendly relationship with. To the extent I can assist in any way in reaching out I'd be happy to do that. We are going to be participating with them in the upcoming collaborative project for Tyler. I would be happy to insist in any way I can facilitate some discussions that maybe we can get this back on track and I can reach out to them.

>> That's something we've done in the past through E&P.

>> I'll be happy to do that.

>> All right.

>> So in terms of this recommendation, any other discussion? So there are two points. This recommendation regarding the audit itself but also the understanding that E&P working with the AOC and with Mary Beth Todd will despite John Judnick's continuing up on the audit, although that will be helpful to the people from council and AOC who'll be working on that, separately from that, let's take the A and E recommendation at this time. Do I have a motion?

>> I'll make that motion.

>> Thank you. All in favor please say aye.

>> Aye.

>> Any opposed? The recommendation carries. I know that Justice Miller will get the folks together and report back at the next council meeting.

>> Right. We'll work with AOC staff to try to resolve the issues and it will be worked through E&P.

>> Thank you.

>> I mean, it's not just the other -- you know, all of the reminder of the 111 that needed to be done that weren't finished but it's getting an accounting person there so they're not draining the services of the AOC.

>> That's why I wanted to bring it to your attention, specifically. One, I wanted you to know the burden on the AOC and to have the opportunity. That's the nice thing about my job. I just have to tell you there's a problem; you have to fix it.

>> [Laughter]

>> You've done a good job of that, Justice Huffman.

>> I think you remember the role reversal.

>> Thank you, John. Thank you, Justice Huffman.

>> Thank you.

>> So did we need a motion on the second part of that?

>> I don't think it -- I think it's more of a procedural matter. We may need one later on but not at this time.

>> Okay.

>> After we get some more information, we'll see what moves the folks there.

>> Next we are addressing item M. SEQA actions, Rules to Implement Senate Bill 743, and we welcome Judge Brick and also Anne Ronan.

>> This is also an action item. It's item M. Is there any public comment on item M? There are none.

>> Go ahead.

>> Justice Ikola should be on the line.

>> Are you there?

>> I am. Thank you, Chief, and members of council. Just a brief introduction to refresh your recollection of the problem that's been laid at council's feet by the Legislature. Back in 2011 the Legislature adopted Assembly Bill 900, which provided that environmental challenges to certain large development projects under SEQA must be filed as a writ proceeding directly in the Court of Appeal, completely bypassing the superior court. Projects qualifying for that special procedure had to meet certain requirements and be designated by the government as so-called environmental leadership projects. AB 900 required the Court of Appeal to complete its review within 175 days and required Judicial Council to adopt rules of court to accomplish this goal. Pursuant to that mandate the Appellate Advisory Committee at that time was tasked with developing rules of court to implement the Legislature's commands. The committee's work resulted in a draft of what eventually became rule 8.497, which in due course was adopted by the Judicial Council on an expedited basis, effective July 1, 2012. Well, nine months later in March of 2013, one of Judge Brick's colleagues on the Alameda County Superior Court declared unconstitutional that provision of AB 900 that allowed challenges to leadership projects to bypass the superior court. The judgment was not appealed, but the Legislature responded by adopting SB 743 signed by the Governor last fall on September 27th. SB 743 remedied the constitution defect by requiring challenges to leadership projects to be brought first in the superior court but also mandated that the entire process in both the trial and appellate courts be completed in 270 days. SB 743 also added the Sacramento arena sports complex to these expedited rules. It should be note that the Office of Governmental Affairs and subject-matter experts from the courts and the AOC, including Justice Robie, who had chaired the earlier working group on the AB 900 project, tried to work with legislative staff before SB 743 was enacted, explaining that such an expedited review was highly infeasible. The Judicial Council also through its Policy Coordination and Liaison Committee also opposed SB 743 to no avail. So here we are. The Legislature has again mandated council to adopt rules of court implementing expedited procedures, which in the view of at least the Appellate Advisory Committee will be very to apply. Those rules to become effective July 1, 2014. Because a 270-day mandate now covers a review by both the superior court and appellate court, a joint subcommittee was formed to figure out how best to comply with that mandate. Judge Brick and Justice Robie, from the Third District, cochaired that working group. They did a wonderful job with a very difficult task. The joint subcommittee's work was approved for recommendation to council by both committees, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee, without significant change. So Judge Brick is here I guess with you to lead you into weeds with the some of the ways the task was sought to be accomplished.

>> Thank you for that presentation, Justice Ikola.

>> Thank you. Good afternoon, members of the council and friends and colleagues. It's nice to see you all again. I don't want to take too much of your time seeing it's 3:00 on a Friday afternoon. Our joint committee included 12 highly experienced SEQA judges and lawyers. We

met several times telephonically. We were ably assisted by staff Anne Ronan, Heather Anderson, and Jay Harrell. We debated how best to allocate the inadequate amount of time that the Legislature has given. There was tremendous cooperation between those on the trial bench and those on the Court of Appeal as to how the time needed to be allocated. It was approached in a very professional way. We did, of course, send our draft out for public comment. We received seven comments. All of them contained useful and important criticisms, which we carefully considered. Unfortunately, given that the mandate is 270 days and we're not able to double that or increase it at all, we did the best we could to come up with a schedule that is potentially achievable. It's a very aggressive schedule. Achieving this – there are only three leadership projects that have so far been approved by the Governor plus the Kings arena in Sacramento. I understand that there may be two more in the pipeline. Achieving the 270-day timeline through the Court of Appeal will depend on the professionalism and the cooperation of all counsel. Counsel in these kinds of cases tend to be specialized. They will have the advantage of having worked through the factual issues and legal issues at the administrative level and created the administrative record. Everybody is going to know what's going on in the case in detail except, of course, the trial judge, who sees it for the first time when it gets on his or her desk, and then the Court of Appeal in doing the review. The highlights of the schedule are that the trial judge will first become involved 30 days after the filing of the matter at a case management conference. The success of this timeline will depend upon prompt filing of the petition and prompt service upon the real party in interest and the responded agencies so that they can participate in a competent way in case management conference. If there are delays in filing and/or service, his management conference will obviously have to be continued and the schedule will drop from there. Eighty days after the case management conference and 15 days after the filing of the reply brief, we have set the date for the hearing approximately before the trial judge and allowed 30 days for a decision. That may sound like an adequate amount of time and it may well be. Given the records in these cases are often tens of thousands of pages in order for a trial judge to competently review questions of evidence and the disputes about what the records shows and then apply the law appropriately, it's not much time at all. In order to do it, my guess is that the SEQA judges will have to begin digging in upon receipt of the opposition papers and then look at the reply brief to see if it advances anything. So that 140 -- approximately 140 of the 270 allocated days will be taken up in the trial court. It's important to know that if a petition for hearing in the Supreme Court is filed after a decision by the Court of Appeal, that's outside of the 270 days. We will be happy to try to address any questions the council may have.

>> Judge Jackson?

>> I wonder why.

>> [Laughter]

>> Steve and I, we were buddies back in the workdays. We go back. I really do appreciate the work. It is what it is. It was dictated by the Legislature. It's just so unrealistic. In my humble

opinion, having done SEQA for three years now and having done big projects, and I have a feeling I know one of them that's in the pipeline right now, the whole -- these are complex cases that require a lot of work, a lot of review. The records are not like any other records I've ever seen in my entire career as an attorney and now as a judge. We're not here to rubber stamp. When we're talking big projects, we're talking volumes. I know it's going to be all on CDs but we still have to go through this. My question, of course, no fault of the committee because you did the work and had to do what the legislators passed, what would be the consequences if we can't get it done?

>> That's a wonderful question, Terry. It's interesting. For the Sacramento project, the language has wiggle room in it.

>> For the Sacramento project, which is a separate statute than for the environmental leadership projects, it does include the phrase that it's to be done this way if feasible.

>> Regrettably, that phrase is not contained in the other leadership programs. I think the Legislature is counting on us to do the best we can. You know, if the lawyers aren't competent and professional, we won't meet these deadlines but it won't be the fault of the judges. The judges will do their best.

>> The lawyers for the most part -- that's one of the big delights of doing SEQA, it's a fascinating area. It's great lawyers. But there's a lot of motion practice. There's a lot of fight over the record itself. They can have it certified. I believe the clock starts ticking then, once the record is certified. But there's motion practice to augment the record, get the e-mails and the demurs. That's what I'm concerned about, that legislators did not take into consideration in this 120 days.

>> Let me add to that, when we're talking about competent counsel. One safety valve is the rules that are before you allow counsel to stipulate to extend the various time. Usually we do get competent counsel on these cases. I think that may well be a safety valve that competent counsel will realize this is not doable and will agree to extend the time. The rule does allow then for the 270 days to be extended by whatever period of time the parties have stipulated. Not perfect but a safety valve.

>> It is a safety valve. I will say that 80 percent of the time or 90 percent of the time they do. I have one case in question that nothing was stipulated to. Those are few and far between. The question still remains, if we can't get it done what are the consequences and I guess it's a --

>> It's an open question. There's nothing in the statutes regarding any sanctions. There's nothing in there about it.

>> Judge Glusman?

>> I know Judge De Alba, and Judge Rosenberg will agree with me and Justice Hull the a Sacramento arena is the most important thing going on in California right now.

>> Without question.

>> Go Kings.

>> Now that he started that, go Brooklyn Nets. Don't go there.

>> [Laughter]

>> Justice Miller?

>> I have a motion.

>> I'll second it.

>> There's a motion to approve the recommendations, seconded by Judge Jackson. I don't believe there's any further discussion. I believe it was handled at the highest level for the courts with the experts doing the best they can for the statute they didn't write. Justice Hull and I were just talking about statutory interpretation and all of those things we say about intent and absurdity and all. But we understand the consequences and our responsibility here. So in that regard, all in favor please say Aye.

>> Aye.

>> Any opposed?

>> Thank you very much for this very difficult work.

>> Thank you.

>> Thank you Justice Ikola.

>> We're going to power through. Item O, this is no action required. There may be public comment, Justice Miller.

>> Right. This is item O, AOC Restructuring: Efficiencies in the Restructuring at the Legal Services Office. Any public comment? There is none.

>> Thank you, Chief. Good afternoon. This is not an action item but an information item. It pertains to the efficiencies and restructuring of the Legal Services Office. By way of background, the SEC recommendations which gave rise to the Judicial Council directives in August of 2012 among other things made a specific point of evaluating what was then known as the Office of General Counsel, subsequently renamed Legal Services Office. Those directives were considered by the council at its February 2013 meeting. The council charged the then-liaisons to LSO,

Justice Miller and Edith Matthai, to examine and issue. Their examination lead to a global assessment of the concerns identified in the SEC report that gave rise to the council directives, which in turn resulted in a report four months later to this body in June, which in effect created recommendations for the consideration of the Administrative Director that superseded the directives previously issued by the council. Seven in number. The council adopted those recommendations and called upon the Administrative Director to report back in March. We didn't have a council meeting in March so this meeting was selected for that purpose relative to the determinations that I had made in consultation with the chief of staff and with the new chief counsel, Debby Brown, who took office at that point in time and the council was aware and so granted us an additional increment of time to enable her to imprint her own management on the office. We return today with a report of status to you relative to the efficiencies and the restructuring that have been undertaken at LSO as a consequence of and in specific response to the seven recommendations that were made by Justice Miller and Edith Matthai's council liaisons to LSO. I suppose I should indicate for context before I turn things over to Debby Brown that in that period of time that I've discussed the overall population if you will of staff at LSO has gone from 75 to 44. The overall number of attorneys practicing in LSO during that same period has gone from 50 to 32 without -- I think it goes without saying any diminishment in their charge. With that, over to Debby Brown.

>> Thank you. I want to introduce Bob Buckley, the sole remaining managing attorney, the senior managing attorney in the Legal Services Office. He oversees four of the six units in LSO so he's here to accompany me and answer any questions you might have. I will try to be very quick. I do want to let you know we have implemented six of the seven recommendations of the liaisons. One of those was implemented with one variance. That one is the first one I want to talk about. That is that the LSO should be restructured with a management team comprising a chief counsel and three managing attorneys over three distinct service areas. With that one, those three distinct services are, first of all, Judicial Council Services and Legal Opinion; second, Transactions and Business Operations Unit, including the Real Estate Unit; and the third is Litigation Management and Labor and Employment Law. We have taken measures to implement this structure. We know longer have an assistant chief counsel. Instead we have a senior managing attorney, Bob Buckley. We have no other managing attorneys at the moment. We have been recruiting for two other managing attorneys, and we hope to hire those very soon. At that point we will have the structure recommended by the liaisons for the upper management team of the Legal Services Office. With respect to the second level of management of the Legal Services Office, the liaisons recommend that it be split into, with each of those two service areas, client bases. So on the one hand there would be Judicial Council Services and the AOC, on the other hand there would be the trial court. We have taken a variance here in that we think it is a better customer service model for us to actually split up by subject-matter group. We would be split up within those areas, for example, Litigation Management Unit and labor and employment law with a senior attorney or supervising attorney over each of those two subject-matter areas. In that way we're able to provide immediate assistance and the subject-matter knowledge, for example,

in labor and employment law, to the clients. The next one that I want to talk about is the role of the chief counsel and the expectations for that role. The liaisons did recommend that it be clearly defined. They attached to their report a detailed list of the responsibilities of the chief counsel. We have adopted that. The next one was that the liaisons recommended we adopt a formal structure to solicit client feedback on a regular basis. Attached to the report that we provided you as attachment C is a draft survey. We intend to send this out to the courts later this year. I'd first like to consult with David Yamasaki, Mary Beth Todd, and Judge Walsh on the best way to do that so it has the least impact burdenwise on the courts. The last one -- the next one, the protocols for LSO's use of outside counsel should be strengthened to ensure it's used in the most cost-efficient manner. We have taken several steps here. First, as recommended by the liaisons, the protocol for the retention of outside counsel has been amended to require managing attorney approval of the hiring of outside counsel. In addition, on an annual basis we intend to review the annual attorney fees surveys prepared by various organizations to ensure the fees charged by outside counsel are appropriate and reasonable. Third, we intend after the conclusion of any significant litigation, arbitration, proceeding before the public relations board, to send a short survey to the court to assess the outside counsel. In addition, we will provide reports to the Advisory Committee on Financial Accountability and Efficiency at the request of the committee about our use of outside counsel and the cost of outside counsel. The next recommendation was that AOC should continue to support the existing practice of permitting attorney resources to reside in AOC field offices provided there's proper oversight and accountability. We do have attorneys in our field offices both in Burbank and in Sacramento and we have added that for an oversight matter if any attorney is out of the office they will need to not only report to their direct supervisor that they'll be out of the office but also to someone onsite so there's the double-check there. The next one was that given that LSO employs administrative staff to support LSO attorneys with administrative tasks, it did not appear to the liaisons that there was a need to create a paralegal classification. We agree with that and are not pursuing creating a paralegal classification. Finally, the last recommendation was that all staff outside of LSO providing legal advice or legal-related services that require a law degree should establish a dual-reporting relationship to LSO and their current office. This one is the one that we have not yet implemented. We believe that it would be better to wait for the results of the class and comp study to see if any other attorneys remain in the attorney classification or may be reclassified if they're not providing legal advice for legal-related services. That will give us more feedback to assist us in implementing that. In addition, in all honesty, given that it's just Bob and myself at the management level, the executive management level, it seemed a little difficult to implement that one right now. That completes my report. I am happy to provide more information or answer any questions you might have.

>> Justice Miller?

>> I thought it would be appropriate to maybe lead off the discussion since it was Edith Matthai and I who undertook this examination and followed through with the work. I wish Edith was

here. She would be very happy to see the efforts made and the progress that's been made. I will make the comment with regards to the one variance that both Edith and I knew that once a new chief counsel took over that we also wanted to leave some discretion to make changes that you felt were appropriate to implement how you thought the office should work. So I can't speak for Edith but I can tell you in my discussions with you and the review of your report that I agree with the variance and the recommendations and the progress you've made, and I think you should be commended.

>> Any discussion or further questions, observations on this nonaction item? Thank you. Appreciate that. Thank you, Justice Miller, and thank you Edith Matthai, for working with LSO on this. We're going to conclude today's meeting as we always do with a remembrance of judicial colleagues recently deceased. There were six of them since our last meeting, all retired from the bench. They are Judge Alan McKone, Orange County Municipal Court; Judge Robert Gallivan, Superior Court of Orange County; Judge John Ingro, Superior Court of San Bernardino County; Judge John Fitch, Superior Court of Fresno County; Judge James Barakatt, Stanislaus County Municipal Court; and Judge Henry Ramsey, Superior Court of Alameda. We thank them and honor them for their service to the court and to the cause of justice. We conclude our meeting. We meet again in June 26 and 27 here in San Francisco. Thank you for your work and your attention and your diligence.

>> [Event concluded]