

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.

[Please standby for realtime captions]

>> The meeting is now in session. We expect we will adjourn at 2:00 or a little bit after 2:00 this afternoon. Our first item of business is the approval of the minutes of our February 19 meeting, two months ago approximately. Do I hear a motion to approve?

>> McCabe moves to approve.

>> Rosenberg will second.

>> All in favor please say aye.

>> Aye.

>> Any no's? Minutes are approved.

>> The second item of business is my regular report to the council summarizing my engagements and ongoing outreach activities on behalf of the branch since our last meeting. These engagements tell stories from two capitals, our nation's and our state's, of new relationships and long-established ones, our new partners and our long-standing partners, especially in government and civic education, among others. This reporting period began the day after our last council meeting with my annual visit in Sacramento to Mrs. Jodi Cooperman's class at Sutter Middle School. I've been doing these visits for approximately 25 years—maybe not that long. These visits along with my experiences with my own children have cemented my commitment to civics education. I was joined on this visit as I always am by the Chief United States District Judge Morrison England, Jr. He brings a federal perspective including the bill of rights among other topic with the students. It helps develop student skills and the awareness of the world around them and increases their chances of graduating. They have the future chance to be our court, state, and group leaders. Some of them might sit around this boardroom table. I continued my activity when I went to Los Angeles. I attended the Los Angeles County Bar Associations board meeting in February. Needless to say, court funding was a key topic of interest for them as well as the questions of the impact of Prop. 47. It was also an opportunity to thank the Los Angeles County Bar Association and members of the Open Courts Coalition for their ongoing advocacy and efforts on behalf of new investment in the judicial branch. When the Supreme Court of California "rode the circuit" for oral arguments this month in Los Angeles, Frank and I attended the Los Angeles County Bar Association Appellate Court section. The luncheon speaker was Lori Levinson from Loyola Law School. She talked about the Innocents Project, she talked about misconduct, and changes for Brady. Partnership was also the theme for

a series of meetings with legislators, associations, and judges. I had informal meetings with Martin, and Corey Jaspersen, with Assembly Member Mark Stone, chair of the Assembly Judiciary Committee, and Assembly Member Mike Gibson, chair of the Joint Legislative Audit Committee. Senator Hannah Beth Jackson and the Legislative Women's Caucus invited me to attend their monthly series of bread breaking with women leaders dinner. It was a great opportunity to have dinner with them, share my experiences, hear their experiences, and hear how they strive to make a positive impact with California. We had our regular liaison meeting with CSAC. We met with members of the executive board of the California Judges Association, their president, and council member, Judge Weber, Judge Kathleen Kelly, Judge Michael Grosh, and Judge Robert Blessman, the former PJ chair who served on this council. The Judicial Council and the California Judges Association have an 86-year working relationship that continues to support the judiciary. I welcomed the 63 members of the Commission on the Future of California's Court System to their first public meeting, ably led by their chair Supreme Court Justice Carol Corrigan and vice-chair First District Court of Appeals Administrative Presiding Justice Bill McGuinness. The commission will ensure the judicial branch is doing all it can to make California's courtrooms as accessible and efficient as possible. The commission represents a broad spectrum of stake holders, judges, justices, attorneys, sheriffs, chief probation officers, as well as Department of Finance director Michael Cohen. They created subcommittees within the futures commission to focus on key areas: civil, criminal traffic, family juvenile, and fiscal court administration. They've already received a lot of input based on surveys and comments from interested parties in the public. I believe the Futures Commission is another logical step in our process of improvement, self-assessment, and transparency. That same day I also welcomed nearly 40 judges to the Supervising Judges Institute: judges new to the supervisory role as courthouse site supervisors or bench assignment supervisors. Justices Miller and Hull and Judge Rubin took the opportunity to engage in the dialogue. Dr. Yvonne Steadham from the University of Nevada engaged the judges in their new role in management and leadership and has a message on her website that reads, "Community is created through communication, commitment, and involvement." I commend all of us on committing to a strong judicial community. I attended an event with young lawyers, federal and state judges, and defense council. It said that it's better to give than to receive; I had the good fortune to do both. I received the Women Businesses Advocate award and presented the California Attorney of the Year award, the Clay Award. It honored 62 attorneys in 17 areas of legal practice, and the recipients included attorneys in solo practice, nonprofits, and international firms. Interestingly five of the cases recognized involved pro bono work. At the ABA event, I had the opportunity to share the importance of civic education and civic engagement, and the work with Justice Judy McConnell, and the civic awards, and actively engaging people in their history and democracy and explaining the good work of the judicial branch. As you know, many years ago in 2001, the state of California task force on court facilities issued its final report. The activities and legislation that came out of that report brought us the Judicial Council capital construction program. On March 19th, 2015, some 14 years later, after much legislation the first new construction project ever funded under Senate Bill 1407 reached completion. It had its dedication in the North Butte courthouse in Chico. I said before it's a team triathlon but we got there. Nearly 500 members of the Chico and Butte community joined the judges, commissioners, council members, David Gunn, and the court in the celebration for their new courthouse. I was pleased to see so many other judges from different counties come to attend the celebration, dedication, and opening of this new courthouse. This courthouse is seven years in the making. It's a great example of collaboration involving the

Judicial Council, our able staff, the court, the county, and the city. North Butte now has a secure, seismically safe, accessible, and efficient courthouse for their growing population.

>> In my tale of two cities, let me refer again to Washington, D.C. where I attended the reception at the Supreme Court of the United States hosted by the Legal Services Corporation. This was addressed by Justice Ruth Bader Ginsberg. The issue of equal access to justice was a key topic of conversation. It coincided with the ABA Law Day in Congress on Capitol Hill. The next day the same themes were discussed at a White House forum. I participated in a panel that included the Chief Justices from Texas, Florida, Tennessee, New York, and Kentucky, and federal appeals judges from the district courts and courts of appeal. There were also interestingly business leaders and technology panels addressing the audience made up of law firms, law schools, the judiciary, the American Bar Association, and private corporations and foundations. In California, we're challenged by our poverty rate. Based on our population, it's likely the largest in the country. For the impact on our court and the public, we have our Judicial Council Advisory Committee on Providing Access and Fairness. It's cochaired by Justices Kathleen O'Leary and Lori Zeelon. We strive to keep on going despite the crisis in our funding. These are the self-help centers, bench guides, and language access plans. We have a number of successful civil partnerships for pro bono, low bono, and modest means legal aid, and our own Legal Services Summit. The state bar has supported the California Access to Justice Commission since 1997. The California Access to Justice Commission is not only supported by the state bar but has diverse membership including the Council of Churches, business, and labor. The Governor's Office makes appointments as well as the judiciary.

>> My second city is, of course, Sacramento. I accepted an invitation to deliver the State of the Judiciary address to a joint session of the Legislature. I thank you for attending that. It was a great support. For the day of visits with legislators, that entire day before the SOJ was delivered at 4:00. One of the themes was the interdependence of our three branches of government and how we have come together for questioning, information sharing, and collaboration. This has resulted in action by them on funding and action by us on accountability and efficiencies. I was pleased to be able to discuss the state of the judiciary in person with the Governor when he joined us at the reception after the State of the Judiciary address.

>> I hope to continue that spirit of an open dialogue, to create an understanding about our courts, and continue the new investment in our branch. That concludes my report to the council.

>> Before we move on to the next item I want to comment on an issue that's not directly related to anything I've said today but has been in the papers and generated much discussion. That is the issue of traffic fines, seizures, and penalties. Before I left for D.C., I heard about the discussions among the presiding judges about traffic fine issues. It struck a nerve with me as I cautioned about a pay to play justice system in the past. It's a very complicated issue. Many people are involved. It's an access to justice issue as well as a fiscal issue. These same fines and fees fund, as you know, many state programs, and these fines and fees do not exist just for the judiciary. I believe we can work to address the access issues resulting from fines and fees. The Governor's recent budgets have mitigated our funding reliance on what we know are declining fees and revenues. Justice Corrigan and others have heard and voiced concern about this issue. There may

be legal and structural challenges but I believe there's a collective will to collaborate on an efficient, fair, and selective association. You will be hearing more about that in the future.

>> At this time, I turn over the microphone to Martin Hoshino for the administrative director's report.

>> Thank you, Chief. Good morning members of the public and other guests. The written report is in your materials. There's other things in there that I wanted to inform you about. There's a few things to report. Some of it is in the report. With respect to budget hearings, I think most people know that we are in the season of budget hearings; they are under way. We had had one hearing about our judicial branch budget in the Senate subcommittee that occurred on March 26. At that hearing, the committee held open many of our budget items as it is related to the first hearing. It's not all that uncommon. While there was a general holding open for some budgetary issues, they voted to approve the first year funding for Proposition 47. They withheld consideration of the second year subsequent to reporting requirements in terms of actual impact in our prior reports and discussions, not all that unexpected given that the proposal of the budget was coming in so quickly after the passage of the act just in November.

>> We have on calendar our next hearing, which is before the Assembly subcommittee hearing, next week on April 22. We are organizing in that regard. In fact, just this morning even as we are speaking here sometime there's a premeeting about that particular hearing. So we have our staff in both locations trying to create coverage so that we understand the issues as best we can in terms of the agenda for next week.

>> I want to take a moment to acknowledge the support of judges, members of the civil and criminal bars, and others working at the capital and testifying in hearings and speaking on our behalf in support of the budget. I think it makes a difference. Keep up your good work.

>> The next I think I want to note is court visits. I want to thank Orange County. I had a chance to go there. They're more than just site visits. They broaden and deepen my knowledge and understanding. There's a difference between I think knowing issues and actually understanding them. So I get there and get to walk in their shoes and see what their challenges and issues are, and more importantly good innovative work they're doing to make all efforts to get the job done day in and day out. It's been an effective thing and I want to thank them for that.

>> On a third item of getting the job done I want to make the council aware that there's an area where the council is receiving recognition in getting an important piece of work done. There was a 2011 report that was called the Taskforce for Criminal Justice Collaboration on Mental Health Issues. In that report, it cited that 18.5% of arraigned defendants and 23% of the California's prison population were having serious mental illness issues. The council supported the task force multiple recommendations for improvements in multiple principal areas. This response was used proactively. It showed the commitment with partners which is critical in promoting outcome for adult and juvenile offenders, improved public safety, and greater efficiency and cost savings. It's an area that I'm quite familiar with. Those were the numbers in 2011. At the time I left the system, the numbers had grown: 23% is now north of 30% and increasing. It is the fastest growing segment of the California prison population. It's not just my opinion. On March 18,

before this meeting, the Mental Health Association of California presented the highest award to the work of the judicial system for its work. That includes the 46 mental health courts and all the work to propose new processes in addressing mental competency issues, extending online education for officers, and conducting evaluations for promising practices. Our Judge Richard Loftis received that reward on our behalf. I want to extend the props to the staff for bringing their collective expertise. I think it's important work that really does make a difference.

>> The next item to share is the California state auditor audit. Last time we spoke we had announced some of the changes that we were making and it was prior to the submission, I believe, of our 60-day report or shortly thereafter. We have some reaction from the state auditor's office. They are generally concurring that we completed three of the items. In our professional opinion, we thought it was four. We have a bit of a difference. We will continue to work on that. We have worked on our schedule to manage the bigger changes of organizational change, and the alignment, and the like; not all that was unexpected. The auditor made a note that some things could happen sooner or be accelerated. We're going to work on figuring that out. We had the deadline of the 60 days and we were nervous about overcommitting ourselves or overextending ourselves because our commitment is for the things we plan on doing, and we will do those things and actually hit the time frames that we say we're going to do them in first without having to change them. We are still analyzing facility consolidation. We were in the implementation stages, as well as writing policies and procedures in support of some of the deficiencies that were noted in the audit. We did have a hearing with the committee. It included the chairs of the Budget Assembly Subcommittee as well as the Assembly Judiciary Committee. It was well attended by members of this council and the judicial branch. I think it made a difference. In his Executive and Planning Committee report, I believe Justice Miller will report on some of the oversight processes with the audit working group.

>> My last thing to note is to mention the water conservation efforts in response to the drought. So I want to provide an update to us and how it is that we are joining the executive branch to do our part in terms of water conservation now and in the future. As you know, earlier this month the Governor issued an executive order on water conservation goals now that we're in the fourth year of an extreme drought. The council will work with the trial courts and appellate courts to address water usage at our court facilities. We plan on taking water conservation proposals to the working group next month. We anticipate, after that, being able to present some proposals or policies for the council to consider sometime in June. The policy or proposals will identify steps to meet the aggressive conservation goals that have been laid out as well as long-term design aimed at sustainability. We're also going to develop and share with the courts some data on a baseline where we have it so that we can bend the purpose of partners and tracking in our facility. We're going to take another look again at the construction projects to make sure we're building the most water-efficient facilities.

>> That concludes my report for this morning.

>> Thank you, Martin.

>> Next we'll hear from Justice Miller on the Executive and Planning Committee.

>> Thank you, Chief. My regular written report will be posted online after the meeting.

>> The first is the audit working group which you appointed as soon as the report was issued. We have met many, many times. As Martin Hoshino mentioned in his report, the group is formulating the six-month response that's due on July 7. All of our discussions have been lively, frank, and productive. I want to thank the members who have been working so tirelessly on this effort. That includes Justice Jim Humes, Assistant Presiding Judge Charles Walker, Judge Brian McCabe, the chair and vice-chair both of the Strategic Evaluation Committee, Marsha Slough, and the chair of the Trial Courts Presiding Judges Advisory Committee, Laurie Earl, Mary Todd, and Martin Hoshino, and the staff. This is a terrific and thoughtful group. I appreciate their willingness to step up.

>> The second thing, the Executive and Planning committee met with the audit group to review the directives that were based on the recommendations of the Strategic Evaluation Committee. Judge Rubin and I will report on that later today. This is historic. This was public.

>> Third, we are now beginning to seek nominations for the council's Distinguished Service Award. The Distinguished Service Award is the highest award presented by the judicial branch of California. We have honored judges, court administrators, and justice system partners for their extraordinary service to the judicial branch. Over these years, the scope of the contributions being made by these individuals has broadened and diversified. Beginning this year for the first time, the Judicial Council is streamlining the award process by consolidating separate awards into a single award: doesn't mean there can't be multiple awardees. That will depend on the number and quality of nominations we receive. We look forward to nominations. We will encourage you to nominate individuals. We hope to honor those who worked to promote the judicial branch goals, access, fairness, diversity, independence, accountability, modernization of management, quality of justice, and service to the public, education for branchwide professional excellence, branchwide infrastructure for service excellence, and adequate, stable, and predictable funding for a fully functioning branch. There's a committee that will review and make recommendations to the Chief Justice. It consists of the four chairs of the Judicial Council's internal committees as well as the chairs of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. For this year that's Judge Slough and Mary Beth Todd. More forms will be online any day now, and a notice will be sent out to the branch and the public. We encourage you and others of the branch to nominate individuals for this award. Thank you Chief. That concludes my report.

>> Thank you, Justice Miller.

>> Next Judge So.

>> Thank you, Chief. The policy committee has met five times since the last council meeting. This is our busy season: once in February, twice in March, and twice in April. We've taken positions on behalf of the council on 28 separate pieces of legislation and approved three legislative proposals to go out for public comment. I'm not going to go over all 28. I'll just highlight a few of these bills.

>> We adopted a recommendation for Judicial Council sponsorship to approve one piece of legislation for cosponsorship. I'd like to thank the hard work of the committee. They're always prepared and also thoughtful on all of these bills. I think the council ought to know these bills generally have been vetted extremely thoroughly. That's because most of these bills have gone through the advisory committees. We've received the positions of the advisory committee and that's really helped in our consideration of the position of the Judicial Council.

>> In February and March we did Senate Bill 127, dealing with the California Environmental Quality Act and of course those bills require the courts to do, and the judges to do, things in a very expedited way. The committee also approved cosponsorship of Senate Bill 213 with the California Judges Association, which deals of course with challenges. In addition, PCLC was presented with the Bench-Bar Coalition's past accomplishments and goals and objectives given for the upcoming legislation year.

>> On April 9, we approved sponsorship of a legislative proposal of the San Pedro Courthouse for Los Angeles. We approved recirculation from the Criminal Law Advisory Committee, the Mental Health Advisory Committee, and the Criminal Law and Small Claims Advisory Committees.

>> The committee has taken a position unless amended on Senate Bill 682, which replicates AB 566 introduced in 2013 and last year's AB 2332. This is the contracting out bill; it's back. I just wanted to be sure that everybody is aware of that. The committee also took a no position on Senate Bill 266, concerning flash incarceration. Yesterday the committee considered four bills on its discussion agenda. The bill I'd like to point out to you is AB 874. We have taken a neutral position on AB 874. AB 874 is the bill dealing with collective bargaining for Judicial Council staff. That's in the hopper and everybody needs to be aware of it.

>> Since the last council meeting the Chief Justice delivered her State of the Judiciary address to a joint session of the Legislature. Immediately after that there was a meet-and-greet with legislators and guests. The Bench-Bar Coalition's day in Sacramento occurred on that same day. We were able to meet with the leaders and legislators on issues of critical importance to the branch. This completes my report.

>> Thank you.

>> Next, Justice Hull.

>> Thank you, Chief. Good morning. Ladies and gentlemen, good morning. The Rules and Projects Committee has met twice and acted once by e-mail since the February 19 Judicial Council meeting on March 20. Rules and Projects met by telephone to review 8 proposals that circulated for public comment during the winter rule cycle. One proposal for technical attempts did not circulate, and one proposal to circulate on a special cycle. We approved circulation as the proposal on a special cycle. The committee proposed additional information. We recommended council's approval from A1 through A9. February 25, we approved a technical correction to a form. We met in person yesterday to consider 34 proposals to circulate for public comment in the spring 2015 rules cycle. We approved circulation of the proposals. These proposals are posted

for public comment through June 17, following circulation and further review by the advisory committees. These are expected to come before the Judicial Council at the 2015 business meeting. We consider and recommended two proposals that are expected to come before the council at the June business meeting and considered one item on our agenda for informational purposes only. That's my report.

>> Thank you, Justice Hull.

>> We'll hear from Judge Herman on the Technology Committee.

>> Thank you, Chief. Since the February Judicial Council meeting, the JCTC has had two open opening meetings and one closed meeting as well as action by e-mail. The primary focus JCTC has been involved with since the February meeting, and before that for a substantial period of time, is the strategy with the B3 courts and also with the expenditures and revenues of a subcommittee of budget advisory for a transition to transform off of B3. In addition to the meetings we had a small subgroup that meet individually with the courts to get input from those courts, reaction to those courts in terms of various transitioning strategies. At the March 26 closed meeting, the B3 courts provided additional collective information to the Judicial Council Technology Committee related to the three. Later in the day the JCTC held an open meeting. Judge Laurie Earl reported on the expenditures to try to resolve the shortfall. They were invited to share their concerns as we studied this extensively. We made a recommendation that we'll discuss in detail in Item H later today. Again, it will be walked through and I'll talk about that recommendation in detail. On April 2 I presented at the Revenue and Expenditure Subcommittee meeting what the go-forward strategy is and working with the committee is, concurring with the action that we will recommend to the council today. On April 13 the JCTC held an open meeting. We got an update on the work of the committee, subcommittee, and work streams. The JCTC amended rules 10.16 and 10.53 to implement the recommendations by the court-approved technology governance including the transition of the name of JCTC to the Information Technology Advisory Committee, updating roles and responsibilities. The committee voted to approve and will now follow the rules process including review and public comment. Finally the JCTC received an update on the activities around the funding of the Sustained Justice Edition case management system and Mrs. Debra Nori who has been the leader of the sustained user group made that presentation and participated and shared in the thoughts of the SJE courts. I would just note at this point that on an ongoing basis Judge Earl's committee has put together a working group of participants including CIOs, CEOs, and judicial officers to work with Budget Advisory on these sustained courts and JCTC in order to come up with a strategy for the sustained court. I'm just grateful on behalf of JCTC to Judge Earl and her committee for setting up that process. I would note that Rick Feldstein, I don't know how he does his day job, but he will be the pivotal person in that effort because he's both on executive committee, JCTC, and will be a strong participant in that working group which will develop a recommendation to come back to the council on how to transition the sustained courts off of support through the CCTC, the California Court Technology Center. Judicial Council Technology Committee was asked to approve that the proposed amendments to rules of court could be circulated for public comment. That will then come back to the council. That concludes my report. If there are any questions, I'd certainly be glad to answer them. I'd just like to thank the staff for a lot of support and work. Kirk, Mark, and his crew, and of course the folks that support Budget Advisory and Judge

Slough, Sherri Carter, and Judge Earl for all the work we put in over the last period of time on these issues.

>> Thank you, Judge Herman. I see no hands raised.

>> Can I see a show of hands on how many members have liaison reports this morning?

>> I have a list.

>> Oh, Justice Miller has a list. I turn this over.

>> We'll first hear from Justice Ashmann-Gerst, and she'll report for the County of Ventura.

>> Thank you. County of Ventura: I was first there on March 16. At the conclusion of the meeting, we were joined by the Executive Committee. Their technology allowed for video participation by the bench officer who sits in their juvenile court. As expected, the budget was high. We focused on the question of technology. I know there was a letter on the issue of technology. The issue of B3 is front and center. Your plan is to offer B3 which they actually liked very much. It costs \$7 million a year to support V3. Ventura knows how to get off of it but doesn't have any money and of course no reserves. Ventura feels they're caught between the JCTC and Judge Earl's committee. Specifically the concern is that Judge Earl's committee recommends reduction of \$1.3 million or 20%. They need to shore up their IT staff in order to do so. Ventura feels that it stuck its neck out when it signed up for V3 and now think they need \$3.5 million to go on the Tyler. Their next concern is shared by many courts, Prop. 47. Since November they received approximately 1,505 petitions. They feel they're going to become a huge misdemeanor trial machine and hope the Legislature recognizes this and will take some action. Even now the court is overwhelmed. Their drug court is down 40%. The bulk of their courthouses were the lower-level felonies. Not only does this increase the misdemeanor trial workload, it's an additional burden for staff when they're down 30% in staff. Another unforeseen for Prop. 47 is more jurors for misdemeanor trials.

>> We opened up meetings to the public. At the last time I was there, they could not have been more gracious and informative. They are impressed with the Chief and her desire to implement the SEC recommendations. They're reliant on Judicial Council staff and don't want their needs to get lost. They have had to cut their training program. They're dependent on the good work done by CJER. They utilize the legal services of HR and council staff. It would be another budget problem if they had to pay for those kinds of services. They're too small to hire their own support staff for those areas. It was a pleasure to assure them that with the liaison program they have a voice here: an enjoyable meeting as well. I want to thank you, Chief and Justice Miller, for the opportunity to meet with the Ventura judges.

>> Thank you.

>> Next we'll hear from Justice ...

>> Anything?

>> Next we'll hear from Justice Harry Hull regarding the Superior Court of Nevada County.

>> Good morning, again. Thank you Justice Miller, Chief. On the 26th of February, I was able to visit the Nevada County Superior Court and had discussions with the judge and court executive officer. Mr. Matroca was with us at the February meetings to discuss the audit findings. I also meet briefly with Judge Thomas Anderson. Nevada County Superior Court is a six-judge, full-time commissioner court. The main court is in Nevada City, with a branch court in Truckee. There's no court closures. The time the courts are open has been reduced from 9 to 8 hours a day. It has a .6 commissioner vacancy, sharing its commissioner as it does with Sierra County. The court used the assigned judges program for 134 days in 2013/2014 and has used the program for 58 days thus far this calendar year. For this fiscal year the court will realize revenue in the amount of approximately \$6.9 million and have expenditures in the amount of \$6.6 million leaving a projected fund balance at the end of the year of \$261,000. While this is lean, I would note that the court ran a deficit of approximately \$393,000 in fiscal year 2012/2013 and a \$133,000 deficit in 2013/2014. Finally avoiding a deficit this year I think is impressive. The court has 56¼ regular staff compared to 58.1 last year, and three temporary staff, and 11.9 vacancies. They contract for entrance screening, janitor, court reporter, and overflow and guardianship and conservatorship investigations. In 2013, the court had 831 civil filings that included family law and probate; 17,936 criminal filings that included citations; and 157 probate, mental, and appeals filing for a total of 20,797 filings. The number of filings are down in each of these categories over 2011/2012. The court was able to dispose of 1,661 civil matters, 10,490 criminal matters, 619 family law matters, and 79 probate and mental health appeals for a total disposition of 12,849.

>> Getting beyond the statistics, the court has been able to realize a number of successes this year which I'd like to report to you. As noted, the court has been successful at keeping both of its court locations open. Nevada County is the first and so far I believe the only county to fully implement what has become known as Laura's Law, with which I was not familiar when we began talking about it. It was passed in 2002 and named after a 19-year-old Nevada County mental health worker killed by a man who refused treatment. A person must have a serious mental illness and a recent psychiatric evaluation, threats towards himself, herself or others. The court makes certain findings. It can order a multidisciplinary team of highly trained mental health professionals with staffed client ratios of not more than 1 to 10. The statute is only to be used in counties that use outpatient commitment programs. In 2010 Nevada County received the Challenge Award for implementing Laura's Law. In 2011, the National Association of Counties Achievement Award in Health was awarded to Nevada County for the assisted outpatient treatment program.

>> In addition to this, Nevada County has organized, after collaboration with its public law center, its self-help center which does not include family law in the county law library. It's achieved a process for addressing veterans' difficulties and criminal cases but does not have a dedicated veteran's court because there's not enough cases.

>> I'd like to note in passing, while the entire court is dedicated to the veteran's program it's of particular significance to the court executive officer who is a Marine who served two tours of duty in the Middle East and has insight to veterans. The court also hosts an annual 5th grade Law

Day where it brings in between 500 and 600 students for mock trials and a tour of the jail and organized an 8th grade to 12th grade peer court.

>> Nevada County reports all relationships are reasonable and effective. Challenges facing Nevada County: the main courthouse, as with many rural counties, is old and been the subject of renovations and add-ons over the years. I have a handful of pictures: remodeled in 1900, and again in 1936, and finally in the 1960s. It's a hodgepodge of space that's come to be used for a number of county purposes. While there's been some discussion regarding the construction of a new courthouse, that project is on indefinite hold. The court's primary concerns are security deficiencies related to defendants, courtroom and jury security, and lack of space as you'll see momentarily. There's no jury assembly room and no lobby. The court has undergone restructuring with limited success, including furloughing employees. It's reduced staff from 76 in 2007 to 56.5 in 2013. It reduced self-help services by 25% in 2014 and endured a significant backlog in all operations departments, including accounting and records management. Under the subject of case management, the court implemented a new case management system in 2013 known as Court View. It seems to be working well enough at the moment. There's some difficulties and a need for enhancements. The court is unable to switch to Tyler because of the cost to train. As to morale, it's a difficult period for them as for all courts. They have experienced, and are experiencing, staff morale being negatively affected but seem to be keeping it together at the moment. I thought Nevada County was a donor court. The funding has been reduced under the formula by less than 4%.

>> The court did not report any significant Proposition 47 caseload. I want to note that the court reported good relations with the Judicial Council staff and complimented the Human Resources division and the Legal Services office in particular.

>> In summary, I very much enjoyed my visit to Nevada County and in my estimation it's a well run and innovative court that's coping admirably. Again, I have just a few pictures to demonstrate some of what I've reported, if I have mastered the technology. I'd like to thank Cristina for helping me with this if she's here. I appreciate it very much. We'll see what we have. This is a picture of the lobby at the courthouse, the entryway and screening. It's very close. If there's more than a couple of people going through screening at a given time, the rest are standing outside in either very warm or inclement weather. This is part of the clerk's office. It's an open space. The workload is piling up. Again, the open counters which is of concern to the court because of security measures. This is simply a shot down sort of a close hallway. There's files back there but it was used in addition to the court services for other court services. Simply an indication that due to budget cuts they're restricting hours for family law facilitators. This is where the three people are standing, the attorneys. This is the entrance to the one courtroom on the main floor. There's no space for attorney conferences. I have a couple more pictures. Everybody has to sit out in the hall, including parties and witnesses. A shot down into that same area you can see how close it is and how little space there is for any activity that's going on in the courtroom. This is another picture in that direction. I didn't mean to take a picture of those two ladies. They are out of nowhere. I did want to note and it's hard to see ...

>> Did you get a waiver?

>> I did. It's hard to see in this picture. Right where the sunshine begins there, the floor slopes down substantially. That is a function of the fact of all the add-ons and reconstruction over the years. The result is, every time it rains that hallway floods. This is the safe. We heard about it during the audit discussion in February. The court noted it was not changing the combination to that safe frequently enough. You can see the age of the safe. I believe they told me that to have someone come in and change the combination is about \$300 per event. Just an indication of other uses of the courthouse that they're working around, this is a hallway down into an area of space that used to be the DA's offices that they'd very much like to put to use. It simply is unsafe in the back of the building. Just a shot of unused space and the age of it. This is the IT department. That is the IT manager; he's it. Just the rest of the IT department, which is used for storage. That completes the photographs and my report. I'd be glad to answer questions. I enjoyed the visit. Thank you.

>> Thank you, Justice Hull.

>> Next hear from Judge Emilie Elias.

>> [Inaudible-low volume]

>> Do you have your mic on?

>>Here you go.

>> I went to Imperial on April 17. I think the interesting thing to realize --

>> [Multiple speakers]

>> [Background noise]

>> [Inaudible-low volume]

>> Thank you. So that's the map and this is the view going from San Diego through the desert. There's 70 miles before you get out to this courthouse. When you finally get there, this is one of the old classic courthouses that I visited two years ago. At that time, they had significant earthquake damage and it was not in good repair. They got it done. You will see the scaffolding has been removed. They have a beautiful classic courthouse with these interesting pink chairs. They have the old style furniture. This was the area that was scaffolding before. They appreciate that all this has been taken care of.

>> It's the site of the new courthouse. This is state-owned property. They just have been approved to build a new criminal courthouse. The reason I was running around is because I don't have the slides with me. It will be their new criminal courts building. The pictures of the building are beautiful. It's going to have all the proper security features. It will have, anyhow it's going to have all the security features and be built—I don't know when it's going to start but it has been approved by our facilities and they are appreciative. They were marching prisoners out where the

judges park. This did not appear to be safe. This has all the passages to not come out into the public. This is going back just to give you an idea of where this all is.

>> They have special issues. I'm not going to talk about the budget. I'm going to explain the issues. They are right at the Mexican border which leads to very interesting issues they have. For example, they have divorces that are cross-border divorces. They have people race to file either in California or Mexico. They have to serve by the Hague Convention. They have problems. They have children where half the family lives in Mexico but also has an address in California. The children commute back and forth going over to school in California. They have court employees where one spouse lives in Mexico but cannot enter the United States and the other spouse lives in California and commute back and forth to have dinner with their husbands in Mexico and come back to California. Some people who can't come in for divorce, the Border Patrol will take someone who is not allowed to come in from Mexico and drive them up to the courthouse, take them to their hearing and they now drive them back across the border. They also provide—that's the court that also provides—that instead of getting medical insurance in California, for much cheaper court employees are allowed to get Mexican medical insurance. A significant number of people travel across the border to see their doctors. One judge travels back and forth to get his hair cut down there. They have all sorts of interesting issues. They have to work closely with the Mexican government. They have a consulate in El Centro. They are near a tribal nation. Not only is it a reservation but it's part in California and part in Arizona. They have to work with them on certain issues. It's just across county on that issue. They have issues with the reservation. They closed a courthouse and realized a significant number of people who used that courthouse lived on the reservation. They now keep it open one day a week so people could get there from transportation; it is difficult to do. They have interesting issues. They also have worked significantly with the Mexican government in the past to try to work out some of their problems. They won the award a couple of years ago for this. The judges hope to do more now with Mexico and more able to work together. Even though it's different laws, they have significant issues. They described it as an area unlike any other where they're not California and not Mexico; people consider it all the same. That was very interesting. The scaffolding is gone from the classic courthouse. They do still have it in the courtroom. I thought this was interesting since I handle the asbestos cases. They found an AR area where they have it and kept the door closed. They just locked the doors and let it be. I don't know what they're going to do with that situation. They have closed courtrooms. They closed the one that was at the jail. They kept the Brawley courthouse open up north. They are going to get their new courthouse. I don't know hold how long it will be to have it built. The reason I was running around is because I have the wrong PowerPoint here so I cannot show you the new pictures of the courthouse but I will send that one with the courthouse.

>> They're on Sustained Justice. They have a very good IT person there, especially for a small court. They have voice-over Internet for their telephones. They do a lot of their own service. They have their own tech center on the property. They save add lot of money doing that. They're one of those courts on Sustained Justice. They are concerned about the cost of trying to go off Sustained Justice at the same time. They used to pay the additional 20% to use the tech center here. They're concerned about how they're going to do that and the costs this will entail. They have 10 judges. The most interesting thing about their 10 judges, they were all born and raised in El Centro. They went away to school and came back. Several are the children of lawyers in town.

They're all local people. They have one part-time 1058 commissioner, and one referee, and rely on the assigned judge program. I did not see piles of stuff. They appear to be running very well. They appear to have a lot of it done electronically. It was a pleasure to be out there again. They seemed in much better shape than two years ago. Obviously everybody needs money, but they are well-organized and well-run. It was a pleasure.

>> Thank you.

>> Thank you.

>> All right. Thank you. For those who made the liaison reports, we will now move to that portion of the agenda for general public comment. As I call each individual's name, if you would come forward to the podium I will also at the same time call a second name and if you could come and stand behind the swinging door and be ready to begin your public comment as the individual in front of you completes their time. We have allocated three minutes today. Just as a reminder this is general public comment on general administration of justice. We're not a body. We cannot resolve your individual claims. It's not appropriate for you to discuss or talk about your individual claims. There shouldn't be any personal attacks on the individuals involved in your cases. We're here to listen to general administration of justice issues. If you make personal or direct comments, I'm going to ask you to move to your next point. First, Mr. E.T. Snell. If I could have Ms. Saucedo approach the door. You have three minutes. Thank you.

>> Good morning, council. My name is ET Snell. I hail from San Bernardino County. My website is etsnail.com. First off, I want to talk about the Helen Despano case. I've been researching these child protective services issues. They're really appalling. Helen was a grandmother who was certified and was approved to have her grandchildren. I'm filing this for her today and I'd like to give a copy. Try to help us get these children back that are illegally taken. We're using the tool as the habeas. There's many things that are upside down in the judiciary as we all know. I look at the state bail bond issues, compare it to the federal court. The state court wants double the equity as the federal court does. The reason the bail bondsman were thrown out of federal court is because they were linked back to racketeering. That's back in the 70s. Another thing is the stenographers, why are we not using videos. They're more accurate. They don't miss or make mistakes, and videos don't lie. Today I wish to address the illegal drug screenings. Since 1990, over 1 million children have been put in foster care and illegally taken behind these illegal tests. The legislators enact section 1125.3 that states drug screening cannot be reported as abuse or negligent but do it every day. The hospital reports drug screenings to CPS. The Legislature determined they are false. They went from \$5 to \$99. They are illegal because there are no consents.

>> 30 seconds.

>> The kicker is that it's used as a false diagnosis. You know, in San Bernardino your court is beautiful. You spent millions of dollars. We're the biggest county around. Why can't we have some teleconferences for the outlying areas? It's two or three hours away. It seems like the money you spent went down the tube. If you're trying to service the people you have to get in some video conferencing out there. Thank you. Have a great day.

>> Just so you know, we don't accept writ filings.

>> Yes, but maybe we can get some help to get these children back.

>> Thank you.

>> If we could have Roberta Fitzpatrick approach. Anna Saucedo, make your public comment. Roberta Fitzpatrick, stand behind the swinging doors. Thank you and good morning.

>> Good morning. I am Roberta Fitzpatrick from San Jose. Excuse me, Chief Justice and council members, design flaws can be deadly. A jury recently held that Chrysler acted with, quote, "reckless disregard for human life in the design or sale of a vehicle in which a 4-year-old boy was killed because of a rear-end collision." The family code is designed with deadly flaws which allow judges with impunity to send children to live in danger. Many children have lived in abusive or sexual servitude and have been murdered. There was no equal access to justice for those children, or for their families and mine. You now have a box of ashes or a grave with their children's names. Please search your souls and find the honesty and integrity to change your policies which have spawned these sorted and unjust laws. Thank you.

>> Thank you. Kathleen Russell and then if we could have Annamarie Jones next.

>> Good morning. Thank you. Three minutes.

>> Okay. Good morning. Thank you, Chief Justice, members of the council. CJE, the Center for Judicial Excellence, has become the de facto complaint agency for family court litigants in the state. We send our people that come to us routinely to the Commission on Judicial Performance which, as I understand, you make 3 of the 11 appointments to that body. The CJP came out with their 2014 annual report last week. There were 728 proper complaints, only 43 judges were disciplined out of 728 proper complaints. The CJP is broken, it doesn't work. We have an accountability crisis in the California courts. In what parallel universe can Judges Scott Steiner and Corey Woodward have sex in their chambers and remain on the bench? Where in the California canons of judicial ethics is this behavior becoming of a judicial officer? The CJP is an embarrassment to the judicial branch. In the Siegendaler case, the Court of Appeals said the rules of procedure for reaching family law decisions contained in the Family Code, the Code of Civil Procedure, the California Rules of Court, and local court rules are not mere suggestions. The rules of procedure are commands that ensure fairness by their enforcement. A few years ago the Association of Certified Family Law Specialists, in connection with Elkins, said the California courts cannot honor the basic promises made to family law litigants and our statutes, rules of court, and case law.

>> One minute.

>> This disconnect between the due process mandate set forth in cases and the reality experienced by most represented and unrepresented litigants is dramatic. This disconnect to due process is stronger than ever today. SB 594 has a child evaluation form created by the Judicial Council to help assure courts, lawyers and litigants that those who are making life-altering

decisions are aware they're following state mandated child custody evaluation standards and procedures. We look forward to partnering with the Judicial Council in passing this important legislation. Thank you.

>> Thank you. Annamarie Jones and then Anna Saucedo approach the swinging gate. Good morning and 3 minutes.

>> Good morning, council. I'm Annamarie Jones. I'm from the county in California that borders Oregon and Nevada with less than 10,000 people. This is a branch of self-assessment that is top priority with the Chief Justice. My very long and painful and heartbreaking history with California's judicial system began 30 years ago by my court-ordered kidnapping by Judge Bob Barkley in July of 1987. And the heist and shakedown of my land and home valued at \$525,000, any personal belongings were ruined and destroyed. This has received the support of neighboring county judges: Shasta, Butte, Tehama, Lassen, Sierra, Plumas and Siskiyou, and a judge in Marin County in 1987. And the attorney that has practiced in Modoc since 1987 has given their support if not actually participated in this denial of justice. Attorneys are officers of the court. You don't have to believe what I'm saying. There could be a way to verify what I'm saying. In the Government Codes, under claims procedures, it talks about preventing reoccurring activity. Where there is a will there's a way. I would like the judicial branch to maybe find a way for me to obtain justice. Thank you for your attention.

>> Thank you.

>> Anna Saucedo and then we have Tammy Leonis.

>> Three minutes.

>> Good morning. I'm here to talk about the importance of code 3118, the Family Code. In my situation it was not followed by procedure. My family court hearing was in Watsonville, California under the ruling of Judge Jeffery Quest. I'm here to talk about how important child protection should be and how we all here I'm sure have children, how important it is to protect our children under the judicial system. My little son was taken away illegally from me when he was only 5 years old. They had claimed that I was a flight risk. Yet there was no evidence to verify proof whatsoever. So under the psychological evaluation also he was taken away in the middle of that investigation which was illegal as well. In Santa Cruz my case was under investigation with detective Elizabeth Butler who was shot and killed in the middle of my investigation. I want to emphasize how important it is that we need to protect our children. Apparently, that's not going on here in the judicial system. All judges, all family court members have the responsibility to protect young kids. My little boy was only 5 years old, adopted from Taiwan. He's now in the primary custody of his father. I only have supervised visits. Why? I don't know. It's been going on for 2 years. My little boy had came to me one day, I visited him, and he had said, "Mama, when I grow up I'm going back to Taiwan." He's only 8 years old now.

>> One minute.

>> I believe I'm so just very saddened that the Judicial Council, the judicial system did not protect my son in the United States and here he is now 8 years old telling me he wants to move back to Taiwan, his birth country. It's a very sad situation. It's going on all over the United States and we need to take responsibility for their actions and stand up for children and their rights because they have no rights. Our country, this is happening all the time. Everyone here needs to really step back and look at what's going on. The abuse, what's going on to our children here. Thank you.

>> Thank you.

>> Next we'll hear from Connie Valentine. This is our last public comment: three minutes and good morning and thank you.

>> Good morning. Thank you for hearing me. I would like to ask for your support also for SB 594 which would create a bill, a forum to make it easier for professionals to comply with all the complex laws and rules governing custody disputes. Fifteen years ago, SB 1716 worked to create protocols and it was designed to apply to all recommending employees and appointees. They were all an integral part of that process. Today, professionals say they don't know about the requirements: 3110.5–3118. The intent of the bill was simply to collect and provide uniform case information and recommendations only for child safety and therapy. It was never the intent for court employees or mental health appointees to make decisions through their recommendations through custody. It was never the intent for the court to appoint expensive experts under Evidence Code 730 when questions of child safety arise, especially experts not qualified, especially in domestic violence, child abuse, or substance abuse. It was never the intent for attorneys to encourage parties to stipulate to an expert because the judge would frown on him if they did not do so, and then for the court to appoint the stipulated expert so parties couldn't sue them if they were overcharged for a shoddy report. It was never the intent for these appointees to conduct mental examinations which are allowed only for good cause shown under Civil Code of Procedure 2032. They were supposed to be looking at domestic violence, child abuse, or substance abuse. It was never the intent to then order the parties to pay huge fees up to \$60,000.

>> One minute.

>> Directly to the appointees contrary to Family Code 3112. It was never the intent to have reports without evidentiary hearing. Yet those things happen daily as you've heard. This forum detailing requirements would help solve this problem. Thank you very much.

>> Thank you.

>> Thank you for those who provided comment. Chief, that completes the public comments section.

>> Thank you Justice Miller. At this time we stand in recess until 10:05 a.m.

>> [Recess being taken until 10:05 a.m.]

>> Welcome back to the council meeting. Before we start on the next item of business which is the consent agenda, and then followed by the discussion agenda, we have one more public speaker on general administration, and I will turn it over to Justice Miller.

>> If Helen Lynn could come forward, please. Thank you. And good morning and you have three minutes.

>> Good morning. There are no courts in California that place child safety as a priority. Violence against women is a misnomer. It is actually men's violence against women, and domestic violence is mostly male violence against women. The United States Department of Justice found judges award custody to abusive fathers based on a parental alienation. You on the council have the power to mandate that protecting children take top precedent. A Yolo County father testified he grabbed the mother by the throat, threw her up against the wall, and she suffers from a traumatic brain injuries. This father was awarded custody and the mother was convicted of fleeing to protect her baby. This father stated that his father got custody. It was super-confusing and super-scary. Mothers are being jailed for protecting their children. Law enforcement, judges' orders, prosecutors, and judges make it impossible for mothers to protect their children. Abuse and neglect emotionally destroy children. 82% of children that are abused to death are three years old and under. The three biggest risk factors for child fatalities are domestic violence, mental illness, and substance abuse. It is time to end the era of abusive fathers' rights trumping child safety.

>> One minute.

>> Thank you. I am done.

>> Thank you. That completes the public comment.

>> Thank you. Justice Miller. Next on the agenda we have the consent agenda and it has approximately 13 items and, as you can see, and you know, rules and forms, Child Support Commissioner and Family Law Facilitator Program funding, and reports to the Legislature and the Department of Finance. Do I hear a motion to move the consent agenda?

>> Yes.

>> Second.

>> Thank you Judge Nadler, second by Judge Rosenberg, and I do not see any hands raised for discussion. All in favor, say aye.

>> Any opposed? Consent agenda items are adopted. Next we have for the discussion agenda, beginning with the trial court allocations from the state Trial Court Improvement and Modernization Fund, and the Trial Court Trust Fund for 2015/2016, an action item, and for this panel, we welcome the chair, the Honorable Laurie Earl and the cochair, the Honorable Marsha Slough, and Sherri Carter, court executive officer, Los Angeles Superior Court, and Zlatko Theodorovic, and Steve Chang.

>> And Judge Alksne should be on the telephone. Yes, Judge?

>> She will be there eventually.

>> Very good.

>> Thank you, Chief. We are here as we are every year around this time to bring to the council recommended allocations from the state Trial Court Improvement and Modernization Fund and that Trial Court Trust Fund, and we're going to start today with allocations from that state court Improvement and Modernization Fund and for the three years that I presented this too, I believe this is my third year we have been the bearer of bad news that this fund runs at a deficit and has a structural imbalance, and we need to act now or we will be forced off of the cliff which is looming. Well, we're here to tell you that the cliff is here and we are standing at the edge of it and I do want to focus on the fund condition for the IMF. You have that in front to you on the PowerPoint but it is also attachment 3 of your materials, which is essentially page 17. If you look at column D, row 21, you will see that the current deficit is approximately \$11.1 million so if we were to do nothing today, not to accept our recommendations, that is where the deficit would live. The Revenue Expenditure Subcommittee of the full committee got together in a two-day meeting and Judge Slough will talk a little bit more about the philosophies and the way that they approach the meeting. They have made recommendations that were then presented to the full budget committee and we can present those to you today and based on the recommendations that the budget committee approved, if you look at column E, row 21, it indicates that at the end we would be \$7 million in the black but that is deceiving because that does not include a recommendation to fund it V3 and sustained because we deferred action on that. So if you consider that the amount to fund V3 and sustain is approximately \$7 million, we will bring a recommendation to you on those two items in June. If you did that \$7 million from the \$7.2 million that is in front of you, you will see that we are precariously positioned at a fund balance of approximately \$300,000 going into the fiscal year 2016/2017. The difficulty with it in FY 16 and 17 is that there are projected increases in expenditures, namely from the system which is projected to increase by \$20 million next year so the deficit next year grows and grows immensely. So why we bring you these recommendations today, I hope that you keep in mind that there is no money in the IMF. Whatever action that you do today, it needs to be based on there is no money in the IMF, and next year will be harder and much more difficult for us. It was difficult enough this year. So I do want to turn it over to Judge Marsha Slough to talk about the approach taken, and all of the things that the subcommittee considered, and bringing the recommendations to the full committee, and how those discussions transpired and then Sherri Carter will walk you through the recommendation.

>> Thank you, Chief and members of the council, and as Judge Earl mentioned we met for two full days in March and when I say we, I'm talking about the Revenue and Expenditures Subcommittee of the Trial Court Budget Advisory Committee. I cochaired that subcommittee with the CEO from Los Angeles, Sherri Carter. Sherri and I think there are 14 additional members of the subcommittee and this was my second year and Sherri's second or third year of the task. I think it's more difficult with every year that passes. We reviewed the Improvement and Modernization Fund's which I will call the IMF fund for short on a line item by line item basis. We reviewed all planned projects and program allocations for FY15/16. We looked at

reduction options and impacts provided by the Judicial Council staff for IMF-funded programs and projects, and I want to thank Zlatko as well as the staff to all of these various funds who made recommendations or set forth potential options for our consideration. It was painful, difficult, but much appreciated for the good work that they did. We also just wanted to start on the ground with the statutes that authorized the IMF fund as well as its predecessors. Yeah. Thank you. We also circulated a survey and to all of the 58 trial courts. The purpose of the survey was to get responses to find out from the various courts how they value the programs within the IMF fund. 56 courts responded and their responses also were very informative and very helpful in this process. As it relates to the statutes, there used to be two statutes: one was found within Government Code section 77 213, which is called the Judicial Administration Efficiency and Modernization Fund, as a way to promote access, efficiency, and effectiveness in the trial courts and to implement projects which were approved by the Judicial Council; and there was a separate fund called the Trial Court Improvement Fund. That was located within Government Code section 77209, and that was money in the fund could be expanded to implement trial court projects as approved by the Judicial Council. Those two funds merged into what we now call the state Trial Court Improvement and Modernization Fund. As I said, the IMF. The monies in the fund may be expended to implement trial court projects approved by this council and also for the purpose of promoting access, efficiency, and effectiveness. And considering the allocation levels and how we were going to approach a very difficult task, we decided at the very outset of the two-day meeting that we wanted to develop as a group certain criteria and principles by which we wanted to apply each of the line items for evaluation so that there would be some objective criteria to the ultimate recommendations to you. Part of the criteria included: are the programs mandated or not, the actual number of courts that the program served, the value to the courts and to the branch, according to the survey results that I mentioned, the appropriateness of whether or not the IMF should be the fund source for those monies, the impact program and project funding reductions that they would have to individual courts and the judicial branch. The primary criteria or principal was the fact that we were not going to consider any increases above the 14/15 funding level. So those were the criteria that we looked at. With that, I will turn the recommendations over to Sherri Carter.

>> Thank you. For those of you who would like to see a summary of all of the recommendations I will be going through, attachment 1 in your material has a spreadsheet that has all of the recommendations with columns that may make it easier for you to follow. I will also refer you to the various pages in the written material for those of you who prefer to do it that way. The first recommendation that we have for the council is that you allocate \$59,372,000 from the state Trial Court Improvement and Modernization Fund for 2015/2016, and this allocation includes a net reduction of \$10,848,000 from the 14/15 level, because of the deficit that the judges have mentioned to you. That net reduction of \$10.8 million includes several things. The first several reductions that I will cover and they are on a spreadsheet and I will start going through those reductions. The first reduction is on page 7, in your materials, and these are a variety of reductions to all of those programs on table 1 at various percentages of reductions, so if you go to table 7, I know it is a little confusing, but if you go to page 7 and look at table 1, the first recommendation is to reduce those programs by those percentage amounts and those percentages were recommended by the Judicial Council program chairs as a reduction that could be considered. First of all, I should have prefaced this by saying that every program that has been funded by IMF was ... there was not one program that was stated as something that we could just

eliminate without there being some pain. In every program, it was seen as valuable. So the Judicial Council staff did a good job in trying to come up with what the programs would look like if various reductions were made so table 1 reflects reductions into various programs based on Judicial Council staff recommendations. That is included in that \$10.8 million reduction. The second set of reductions is on page 8. This maintains programs at their 14/15 level. As Judge Slough indicated, one of the principles was to keep all of the programs at the 14/15 level and for some programs, that was actually a reduction because they had program cut increases and so I wanted to point that out, that even though they are maintained at the same level, many of those programs are still taking a reduction because of their cost increases. Also, included in that \$10.8 million net reduction is an increase for four programs that are outlined on page 8. They were, even though it violated one of our principles, we thought that it was critical to actually do these increases because of systems that were 8 or 9 years old. If they fail, it would impact the branch severely and so four programs were allowed to increase for a total of \$625,000. Those are outlined on page 8. The next group that is included in the \$10.8 million reduction is the total elimination of nine programs and a partial elimination of one program and those are outlined on two of the materials, and I thought that I would go through them in more detail because they are completely eliminating some of those programs and the first one is human resources court investigation. These were contracted court investigation; stemming from trial courts personnel issues, firms were hired to investigate these at nine courts. And we are recommending that the program be eliminated and those courts that used to service could contract those investigators using a local fund. The second program is to eliminate a Workers' Compensation reserve. The Judicial Council has been resolving monies owed to counties for claims, payment, and administration for losses with the dates of injury occurring between January 2001 and the date the files were transferred to the branch, and we believe it that these claims are over and that we can eliminate that reserve with no problem. The third is an audit contract expenditure. We have not used this, I think, now for two years and it was money that would have been used to hire outside firms to help perform audits and we are recommending that that potential contract be eliminated. The fourth is the justice partner outreach and electronic services program and that was a program that helped to plan and implement electronic filing of court documents and service of court documents, and we are recommending that that program be eliminated. The fifth program is it the ADR Center program. That program contracts for the development of materials to help support court-connected ADR programs across the state and again, we are recommending that that be eliminated. The sixth program is the complex civil litigation program. This was a pilot that started in January 2000 to help facilitate and manage these very complex civil cases, six courts were part of that pilot and have dedicated complex civil courts and I want to just indicate to this point that the elimination of the complex civil funding from the IMF is directly related to recommendation 7. Because if you approve recommendation 7, it would now create permanent ongoing funding for those complex civil filings for all of the courts that receive them. It is an interim solution. It would give them the same case weights in the weighted filings that helps fund WAFM. It would give all complex filings the same weighted filing as asbestos cases, which are one case type of complex cases, and it would help preserve some funding for the courts that do have these expensive courts to maintain, but I did want to indicate that those are somewhat related together.

>> Okay.

>> Justice Miller, I believe that Judge Lorna Alksne is on the line—and she is chair of the Workload Assessment Advisory Committee—as we reference recommendation number 7. I have had an opportunity to speak briefly with her about the recommendation, and I believe that she would like to address the council at this point.

>> Thank you. Yes. Thank you. This is Judge Alksne and thank you for letting me call in and I am sorry that I'm not there in person. We use real data and statistics to create the stated weights and that civil unlimited case weight included is case processing and that work associated with complex civil cases, and we did the study in 2010, so we captured the complex civil cases in that original time study that we did. So that has already been captured and so the case weight that we gave in all civil or the minutes was 797 and if we now apply a different case weight to those, they would be double credit for anyone that was already included in the study that we did in 2010. But moreover, we don't know what it takes, we have never studied a complex civil case except for asbestos and we don't know how many minutes it actually takes and we would not know this without further study and WAAC tries to be a neutral statistical committee and I am concerned about using an artificial number that we just choose without any backup and that it might downgrade the model. So while WAAC has no stake in this, we would be happy to look at whether or not complex civil does generate more minutes than unlimited civil and breaking out in the next workload study which we will be doing in the fall of 2015 to artificially put a case weight on a type of case that we have never studied is a concern. And we are looking at other requests from the council to see whether or not death penalty cases should come out and be a separate case weight and so we are willing to do that kind of work but we just want to make sure that we can back it up with data. And I know, but yes.

>> I'm sorry. Go ahead.

>> That was all I needed to say and Leah's there for technical questions, but I wanted to make sure that I brought that point up so that the council could consider it.

>> This is Judge Earl and I wanted to ask a question for clarification. You indicated that the resource allocation study currently for assessment study currently captures complex civil filings and it is my understanding, and correct me if I am wrong, that it captures them as a general unlimited civil case. Is that correct?

>> Yes. So it captured all unlimited civil so it was already captured and part of the model.

>> How many minutes does it ascribe to it?

>> All unlimited civil are 796.

>> So currently the model does not distinguish between complex civil and unlimited civil? Correct?

>> And it is not that it cannot be done but what we do not know is how much time complex civil nonasbestos actually takes. We do not know that it is not 840 or 2,010. We do not know. What it

is in my concern is that we just start putting an artificial number on a case type, that we have now created a model that is no longer scientifically or statistically based.

>> If your group was to study this in your next cycle, how long do you think before you had a solution or a proposal?

>> Well, we are asking courts to participate in that 2015 workload study, and that came up, and I presented to CEAC asking for volunteer courts, and so as we called those courts and get a nice cross-section of courts throughout the 58 counties, large and small, we will, in rural and urban courts, be starting the study in October 2015, analyzing the data, and coming back to the council in 2016 with new case weights.

>> Would it be before the end of the fiscal year in 2016 or after July?

>> Let me ask Leah that question.

>> It is planned for the end of the year.

>> Could we come up with a case weight for complex civil before the end of the fiscal year?

>> Yes. What I understand is that there is a time frame for the Trial Court Budget Advisory Committee to come up with a solution this fiscal year, this fiscal year meaning by July.

>> We are talking next fiscal year, Leah. By July 2016.

>> Yeah. We will not have the study finalized but we certainly could come up or use some interim results by the close of the fiscal year. After we collect the data from the courts, courts have often reminded us that what we see in the courts right now is not always reflective of how the courts wish to do their case processing and that resource constraints mean that in some cases courts might not be spending the time that they wish to in certain areas and so we go through an extensive validation process to make sure that the data that we get back from the study reflects accurately what is happening in the courts and then measures a little bit of the aspiration or the what should be so. That is why the process takes a little bit longer after the close of the data collection. But in the interest of getting a result back to the Budget Advisory Committee, we can put some steps into place to speed that process up so that you have something to work with by the close of fiscal year. Are we talking 15? 16?

>> Justice Miller or Chief, I do not know if anyone has any questions, and I know she has to get back to her calendar.

>> I know that there has been a lot of discussion about these recommendations, and complex civil litigation received a fair amount of comments. Any questions? Debra Pole?

>> Thank you, Chief. Yesterday, April 16, 2015, I received a number of telephone calls, voice mail messages, and e-mail messages from what they call themselves as stakeholders on the complex civil litigation issue, and some of the notes that I took were from people on both sides

of the aisle who do this type of work, and they say that having complex civil litigation reduces inefficiency, that it prices towards cases and consolidated proceedings through that process which needs the resolution of hundreds of cases that are consolidated under the JCC products, and that they want the litigation issue table so that they can hold more study on it and they feel that this issue was buried in these recommendations and that the recommendations should have been socialized more broadly and these people: I cannot repeat in this open forum some of the statements that I got regarding these recommendations from people who do this every day. And they believe that the courts that are going to be affected are the ones that have these proceedings in these complex issues and when you compare complex to noncomplex issues, there is no comparison because of the experience that the staff and courts have on these issues, so they are asking that this issue and at least of this part of the recommendation be tabled so that it can be socialized more broadly and I think that yesterday we even received one e-mail and I was not able to access it on there but I knew that I did have a call. Did you receive my e-mail? And I kept it and I have to admit that I had not but I had an idea of what it said, so that is the issue that we have before us right now and it simply is this part of the recommendation be tabled. People feel very, very, very strongly about this issue.

>> Justice Ashmann-Gerst.

>> I want to echo some of what was said and if the concern is that removing complex civil from the IMF prior to a decision from a WAFM might result in the funding being eliminated and of course it is a program that is extraordinarily successful. My thought is that is it possible to make the elimination or complex from the IMF be contingent upon the Workload Assessment Advisory Committee's work as set forth in item 7 since it has been noted that all unlimited civil are treated equally and I think that what we do not want is a gap in the funding for a very significant program.

>> I think that you should consider recommendation number 7 and the elimination of complex civil together.

>> Thank you. Maybe there needs to be more questions about how recommendation 7 addresses the specific concerns about complex civil litigation resources of approximately \$4,000,000. Before I get there I saw two hands raised and that is Judge Jacobson, Judge Elias, and then Judge Buckley in that order, please.

>> Question I have is that with the replacement of the funding or the offset, if you will, with the WAFM case weight adjustment, is there a difference in how that affects donor courts and recipient courts?

>> I do not know the direct answer to the question and maybe he would respond now.

>> If we include this case rate at this level, that would mean that the total cost of WAFM would go up so first and foremost the cost of doing business would go up including this 3,500 case weight issue within the overall math. We still have a finite number of dollars within the PCTF to allocate so in theory, there would not be more money allocated but what it would do to get to your question, Judge Jacobson, is that the share of the dollars would realign slightly in those

courts that would get credit for having these cases. Currently, the IMF funds six courts and I believe that there are 30 or 38 courts that would have these types of filings and so it impacts a large number of courts and getting sort of fractional change and, potentially, their WAFM share but there are many factors that influence WAFM insomuch as the overall filings, the cost of staff, other factors like our Bureau of Labor statistics changes so it would be one of the factors that changes the court share but all things being equal it would effectively bob up a little bit those courts getting a little slightly bigger share of the WAFM and I do not know the split of contributing courts and recipient courts as far as which ones. When we talk about upwards of 38 courts, we're talking most courts—a large portion of courts—are going to have an impact and the benefit so that would impact both, and receiving courts.

>> Judge Elias and Judge Buckley.

>> Thank you. As you probably know, I am the supervising judge of complex in Los Angeles and I have been there for five years, and in complex for 10 years, and before that I was 11 years as an IC judge and direct calendar judge, and I can tell you that the workloads are very different, the types of cases are very different. I hear all of the JCCP motions to coordinate those cases are brought in from around the state. We handle all of the drug cases, which are huge. Some of these cases have 500 underlying cases in them for different pharmaceutical companies and they are different. I am not asking to make a decision now on how different they are but I would ask that we follow Justice Ashmann-Gerst's recommendation and tie the two of them together and give you a chance to look at it, and happy to turn over the caseload, and you can see everything that we have, and I think you'll see that there is a substantial difference in the work and putting them together and deferring the elimination of complexes—important just to tell you I got off an airplane yesterday morning and the lawyer said to me, "We hear that you are eliminating complex and why are you all doing that?" This was while I was sitting on the airplane.

>> Just to remind you, that to the extent that this were to remain funded in the IMF, it would be \$4 million of other reductions in the 48 other programs that are still considered so there is new money for this, and this would happen at the cost of other programs.

>> As I understand you, this has been carefully vetted and it is a zero/sum game and if anyone is taken out and deferred, it means that for fiscal year 15/16 there has to be a place as you indicated where \$4 million comes out and I have also heard that potentially after we had the discussion, there are two issues to really consider and that is a complex civil litigation and actually move to recommendation or be heard in conjunction with recommendation number 7, and I heard Sherri's explanation of her 7 but it might bear a little bit more explanation or Q&A while we hear everyone's position on this issue. So I am going to ask Judge Buckley and then Justice Hull. I expect my first was going to be that the \$4 million, that is almost obviously 40% of the solution and if we take that solution away, it is very significant. The asbestos case, being used in that number 7, I think it is very wise—in another life I was a supervising judge in civil—and one, asbestos cases have a fair amount of work during the pendency of the case and most of them do not go to trial, and the workload is really during the case. Also, if you look at number 7, it says until such time as the advisory committee reviews the validity so we are looking for an interim solution for this 40% solution to IMF. So whether it is a year or so, we can I think make a realistic and fair comparison of these complex cases to an existing case type of asbestos. It may

well be after further analysis, the complex case gets more hours or minutes I should say and then gets less but it gets us into this year, gives them that 3% answer and we can keep open the complex courts and I can assure you as a PJ of Los Angeles, that complex courts in LA are not closing. But this gives us the funding that we can have a smooth transition until their Workload Assessment Advisory Committee can do the workload requested in number 7.

>> Judge Hull.

>> Thank you, Chief, and listening to the discussion around the council, as I understand it, basically when we are talking about complex civil as it relates to recommendation number 1 and then recommendation number 7, we have one of two choices: we can effectively define it at least out of the IMF complex civil and with recommendation 7, study it further and if appropriate, later on in the fiscal year, the upcoming fiscal year, we can revisit the issue if the statistics justify that. Or on the other hand, as I have heard the conversation, we can carve complex civil out of the recommendation number 1, subject to that further study. If those are the two options, I do have some concern as has been stated: if we simply called it out for this fiscal year, for next year where do we save the \$4 million out of the IMF? I think that that is worthy enough. I am oversimplifying this, please let me know but it seems to us that that is what is facing us.

>> That is exactly what is facing us.

>> I just wanted to reiterate a comment that has come up earlier but I think it needs to be mentioned again since we already measured the workload of complex civil cases in general unlimited civil cases, we really could not proceed by giving those cases of the asbestos case away because we would essentially be double counting and inflating the WAFM need necessarily.

>> So, Leah, could you tell me, then, at this point is recommendation number 7 a future formula? Because I guess I do not understand the answer you just gave.

>> Well, so it sounds like there might be two alternatives I think as Judge Hull laid out and one would be to restore or find some way to find it through the IMF with the \$4 million or the other alternative is presenting the recommendation and just to assign those cases, this case weight, and what I'm trying to convey is that it cannot just be the latter. If you are moving in the direction of the latter and not going in the direction of the IMF funding, then there needs to be some other adjustments that we need to make to the rest of the model so that we do not overinflate our statewide need.

>> I understand. You are saying, I heard, that the complex is complex civil and has already been taken into account in the unlimited civil county, so recommendation 7, which is set to assign complex civil 3,500 minutes, would not happen in 15/16.

>> I am saying that if that were implemented that we would get up with a statewide need that would be overstated.

>> Right.

>> Because it has been double counted.

>> Exactly. So I think that there needs to be maybe another, a slight revision that would allow us to come up with a different way of weighting those cases.

>> Okay. There are a number of hands raised and so I'm going to ask Judge Buckley, Judge So, and the panel. Thank you.

>> My question really would be, can we take the 3,546 minutes and reduce it by the 797 minutes that was part of the general civil, whatever that is, the joke was we went to law school because we do not want to do the math. Would that be a solution to that specific issue?

>> No.

>> That was our recommendation, actually. To clarify.

>> You would deduct the number of cases at the current case weight and then add them back in the new and that would be the net change but I think that fundamentally, is the 700 currently at 700 because the measurement includes complex and so, Leah.

>> It is baked into the entire part of the unlimited civil.

>> Right. And we can make some modifications but I think we are making a big assumption that complex civil follows the same profile as an asbestos case and when it comes to something like trial, like for example the 3000–3500 minutes essence that every single case goes to trial and in my understanding, just on a superficial basis, that is not the way that the complex civil are typically resolved through trial.

>> If I could point out, Chief, and I do not mean to interrupt anyone who has been trying to make a statement, Judge So, but I just want to remind us that this is a temporary solution, while the Workload Assessment Study is completed. This is \$4 million, through the IMF fund and as Judge Buckley pointed out that is approximately 40% of our potential solution to our problem within the IMF. And this is for six very important courts. I do not minimize at all the value of these complex courts. And I very much respect and trust and believe Judge Buckley when he says that if it went away, they would continue with theirs if we do not do this. So please do not take this as meaning that I don't value or any of us don't value those courts. We do. But these are six different county court systems that get the \$4 million. And we believe and recommend that a temporary solution to this problem is the appropriate path to take.

>> Thank you. So I'm going to hear from Judge So, then Judge McCabe, then Judge Jacobson.

>> It seems to be a consensus that complex litigation courts are something that are valued, and it is just a question of what pot we get paid out of. And we are trying to establish, trying to estimate the best we can without doing the study what the appropriate weight is. And it seems to me that we can make that best estimate using more historical best practices, the expertise that Leah and her staff has, and coming up with a number that best approximates the weight today without

doing the study. And that seems to me where we ought to be headed. It seems that this number may be a little high. What the appropriate number is, I am not sure. I do not have that expertise but I'm sure that you folks can come up with a best recommendation for a stopgap for this year.

>> Judge McCabe and then Judge Jacobson.

>> Thank you, Chief. As I understand, this is designed to address the IMF structural deficit. And the root problem is funding and a lack thereof. So in essence, we are choosing between whether we cut off our left hand or right hand but either choice is not going to be pleasant and it is going to hurt. If I am wrong, correct me. I am looking through these issues, I will note, and I have two hats on. Of the first one, as a presiding judge of Merced's superior court, my CEO and I drafted a letter along with some other cluster 1 and 2 courts that address the minimal \$1.2 million of security funding in there that was immeasurable to the courts. If you do or do not know, there was a fatality shooting in my courtroom. I was the judge and horrifically witnessed, along with another 150 people, the killing of an individual who was assaulting the court with two 10-inch blades. The security funding was instrumental in providing our court, which did not have the funding, monies to address security shortfalls. And other courts are similarly positioned. Notwithstanding, taking that local half and putting the statewide one on it, I get it. I get that we have a deficit and we have to address it. I get that there are going to be some painful decisions here and that this is meant as a temporary stopgap until we can figure out either funding solutions or better mechanisms. I, too, share the concerns of the effects that this may have on the variety of programs but it all comes back to funding and lack thereof, so I am going to give you a definite maybe here. I do not have a solution. I do not know what the solution is. All I know is that we have noted that deficit in IMF for a number of years. We have noted that we were coming close to the cliff. We are at the precipice now. And I feel the gentle push on my back in getting ready to float. So with the consternation acknowledged, I understand that. The question I have, is it necessary to implement this action today versus June? Because I know some folks are looking for more data, etc. And so, could you address that issue now versus the June meeting?

>> Judge Earl.

>> Well, I don't know where we would find \$4 million. This was the third time that I have sat through those two-day meetings looking to the IMF accounts, and I cannot tell you. The elimination: we started to go through these nine programs that are completely eliminated and one that will be partially eliminated and I don't know of any other program there that would be equivalent to \$4 million. I can also tell you that complex courts provide the main revenue to the branch. The attorneys who paid the \$1,000 filing fee pay that because they wanted the service that those complex courts provide. They bring in \$26 million to the branch. Last fiscal year. So the recommendation 7 was recognized and if you read it and if you read the materials that actually outline the rationale for the recommendation on page 12, you will see that it was seen as an interim solution. We did recognize that it was something that we needed to have as smart experts likely look at. It was completely seen as an interim solution because we needed to find a way to save the money from the IMF but we had to recognize the value of the complex courts to the attorneys who have been so supportive of the branch and to the courts that maintain them and so we felt that this was an interim solution. It will not increase our money. As Zlatko said, it may increase the size of the WAFM and perhaps that is accurate and we should address that anyway

but if the pie stays the same size, it may increase slightly the size that goes to those courts that have the filings. The part about the complex program as it is now, that has always concerned me in that it only went to those six courts and there are courts that receive more filings, more complex filings that get no money from the program. So I support recommendation 7 and eliminating it from IMF because it is an interim solution. I believe we could subtract the 796 minutes which would give us 2,756 minutes for an interim solution. And it would provide that into all of the courts who are addressing these cases. So can we wait? I don't know if we can wait because the end result is in June, that it will not be supported, I don't know what we will do if we have to go back to the committee because there is not anything else there for \$4 million.

>> May I turn your question on its head, Judge McCabe?

>> As I expected you to.

>> I would suggest to them rather than delays, that the recommendation be approved and allow Leah and her team to look for an alternative solution, and an interim temporary alternative solution while the workgroup does its work.

>> Report back at the June meeting?

>> Absolutely.

>> Okay. So I know that is out there but there are a number of people that still wish to be heard and I am going to call on Judge Jacobson, Judge So, and Judge Miller, but I am wondering, through the fees that are generated by the complex cases, do they exceed that \$4 million amount? If so, and that is my understanding, is there a reason why a portion of those fees cannot be diverted to pay the courts the costs that are currently funded by the \$4 million IMF grant?

>> That would impact allocations to all of the courts since we do not have any access trust fund. That these that were increased to a thousand dollars was part of budget reduction offset, a general fund was reduced and as we have become unfortunately more reliant on fees, this was one of the fee revenues to reduce the impact of budget cuts. So if you take this money, currently in the stream, go into all 58 courts and then pull it and divert it to those six courts that currently get the \$4,000,000, 52 courts would lose money in the overall.

>> What I'm asking is to the extent of that certain courts are doing this work and generating these fees, should they be reimbursed for that cost as opposed to taking a cut for this profit?

>> Everybody is getting some of this money but it was not intended to explicitly fund the complex courts. It was a means as part of a package to offset budget reductions and such absent of these revenues. All courts would have taken cuts, not just the complex courts.

>> Let me say, I have several people who have yet to be heard and I want to keep it focused on the decision we have to make today. So I am going to ask Judge Anderson, then Judge So, Judge Rosenberg, and Justice Miller, and then we are going to call for a motion. Okay. Go ahead. Judge Anderson.

>> My comments are directed to why we are here today rather than anything particular and specific and I think we should all stop and remember why we're having this conversation and having it because of the shortfalls to the branch. Not because of anything of the Trial Court Budget Advisory Committee making self-directed decisions, so we need to understand that we have less money and we have to make difficult decisions and that is why they are there, and two I think what we need to avoid is the seagull effect, and that is you throw a piece of bread out there, what is left, and we all come gliding down and beating each other up trying to get the one slice of bread and as we are looking at the big picture, let's not be seagulls. We are all in this together and I think we all need to quit circling at the one piece of bread and figure it out how to divide it. As we look at this, at the role of the Trial Court Budget Advisory Committee, it had debated on the subject in an open meeting with comments and came up with these recommendations for us to consider, not rework, not for us to rubberstamp but for us to take the high view of the work, and the debate, and of the TCBAC to come back to us with some recommendations for us to evaluate the process and then for us to evaluate how they arrived at the decision, but not that we make the decisions for them and either vote to accept or reject and so that is what I suggest we do.

>> Thank you, Judge Anderson. Judge So, Judge Rosenberg, and then Justice Miller.

>> My questions: as I understand it, you think that there is a problem theoretically with the way that recommendation 7 is currently worded because it is an arbitrary number. The 3,546 is an arbitrary number. How long do you think it would take before you would be able to come up with a statistically defensible estimate? I guess that is the best way I could describe it and that you would be comfortable with, that would withstand scrutiny of legislative questions.

>> We have, and staff have discussed, ways that we might be able to achieve this in time for this body to review allocation decisions in June or July and we think that we can come up with something, possibly working with representatives from the pilot courts or who hear these cases and can weigh in on that.

>> So my understanding would be less than 3,546. But it would be greater than something.

>> Greater than the existing.

>> Right.

>> And then that would be something that you think that you could justify and defend from a statistical point of view. Is that correct? But so if I can make a suggestion on how I might suggest rewording the recommendation, it would be to make a slight modification. I would read it as direct Workload Assessment Advisory Committee to include, in the resource assessment study computation of workload, the paid complex case fee filings, and propose an interim weight until such time as the advisory committee reviews the validity of the waiting.

>> Write that down.

>> But we would have to come up with the interim weight, two to four weeks.

>> Okay.

>> So you work on writing out that amendment to recommendation number 7. I am going to hear from Judge Rosenberg and then Justice Miller.

>> Judge Jacobson actually asked a question that I was going to ask and it was responded to, related to the \$26 million so I am covered.

>> Okay. Justice Miller, but I intended to make a motion.

>> Before you do, let me say this: I think that all comments here are valid but this discussion had to happen here and this is the role of the Judicial Council. I know how hard the committee and everyone on it labored on this, and that it was open and that there was much discussion. Frankly, there has been discussion about complex civil for years, for the very reasons that Sherri Carter pointed out about complex civil happening in far more courts than six, and we are in this difficult position. We would be in a far worse position, I think, if we did not have the support of our stakeholders who are also very adamant about this issue. But I believe that this is an interim, and based on interest around this table and in our branch, this is an interim and ongoing solution. Because we all understand the value, not only of complex civil litigation but of all the programs in the IMF, including the nine that are being cut and the one that is being partially cut. So I don't want to diminish the importance of those other programs as well but understand that this is hard work and these are absence traces. And we expect that we will reevaluate as we do and I really thank the hard work of the Judicial Council staff in these computations and the flexibility and agility that you have with trying to address our concerns. So I wanted to say I appreciate all of the questions and concerns and the fact that our stakeholders believe that we are accessible enough that they call and they e-mail and they stop us on the plane about what they believe is council work and these are the reasons that we have a council: to debate proposals that are considered, so I thank you for that and I say that before the motion, Justice Miller, and now you have something in writing.

>> Yes.

>> Yes.

>> Just as we have been focused on the complex court and I just want to mention one other one and that is the HR piece and just to ...

>> Bullet one?

>> Just of the courts that we have been liaisons with that almost, the court has said we cannot survive without the staff of the Judicial Council helping us out with HR and with Legal. We do not have the money to do it ourselves, and we do not have the staff to do it ourselves, or the expertise on behalf of the courts that we work with. I would like to make that comment.

>> May I address that?

>> Yes.

>> In your materials, you probably did not have time to review the big stack of surveys but I have had the pleasure of reviewing it about three times and on page 28, it shows you the court clusters and columns and I looked at that very carefully, even before we had the two-day Revenue and Expenditure Committee meeting because I was concerned about how that elimination may impact our small court sisters, so if you look at column 1 on page 28, it shows the clusters: column 1 are the small courts, and there are 14 there, and there are 12 in cluster 2, and nine in cluster 4. Everything that is important is because on page 30 of those materials, it tells you how many courts used that HR service. So cluster 1, it was 7 of 14; cluster 2, it was 18 of 21; cluster nine was 3 of 12; and cluster 4 was 3 of 9. The reason that is also important is because on page 119 of your materials they list all of the courts who use the HR service and they were not predominantly the small courts. So we did look at that and strongly debated it and considered it and actually brought the materials here today because it was important to me to consider the smaller courts and we did not find in any of the survey results that that was a program that was valued by the courts.

>> Let me say this in the interest of Justice Ashmann-Gerst's style, which I appreciate, there are seven recommendations in front of you and the seventh is going to be amended so I ask council, I know all of us are diligent of the background when we eliminate programs that council created from the IMF fund, so I'm asking now, before I think Justice Miller is prepared to make a motion, to call out individual members of council and collect the recommendations for which you would like greater clarification or a greater understanding that you do not find in the written material before a motion is heard on items 1 through 7 as amended. Are there any other issues here in the recommendations in your binders that you would like to discuss publicly before we take a vote?

>> [Pause]

>> Judge Stout.

>> Thank you. I want to compliment the committee. This is a horrible task that you and the staff have had to undertake and we support and appreciate your excellent work. You're in a no-win situation and in the spirit of what Judge McCabe said, I do want to kind of highlight and try to just keep on the radar screen from other funding sources, if any, the court security grants. I mean, for many of the small rural courts I know that they responded as well as Merced County, and this can really obviate what minimal security there is in the first place. And something else that's kind of dear to my heart that has not been discussed is the Center for Families, Children & the Courts programming and this becomes a significant issue for judicial education around dependency. As I understand it, most of that funding is for 15/16 and would go to the Beyond the Bench conference. I underlined a lot of this, I know it's the pay-as-you-go kind of concept, and that is a significant concern because trial courts we know do not have the money and I am afraid we are not going to get judges to go to incredibly valuable and required (in a sense) continuing education and dependency classes. Particular now, as we alternated the years having Beyond the Bench one year with the Juvenile Law Institute the next year, we are really in jeopardy of not having a meaningful program until November 2016. But you and I know that the staff are going

to do their best to reach out and find a way to fund that particular program, and I hope that they are successful in that. But I am supported here, though I hate it as much as probably everybody else, but I thank you for the opportunity to at least highlight those critical needs in my view.

>> Thank you. Judge Stout, and Justice Hull, and Judge Brandlin.

>> I have been listening of course and listening to Judge McCabe and Judge Stout's concern about the trial court security grants, which is one of the bullets under number 1. And I noticed that it says about trial court security grants that if the Judicial Council believes that this program is a priority it can consider whether it is appropriate to fund from one of the state construction funds, and I think we all recognize that security has to be deemed a priority. I'm just wondering if there is a plan afoot, so to speak, not by this committee but by somebody to look into whether or not this should be funded out of construction funds. Is that discussion taking place anywhere?

>> I don't know. We bring that to you and believe that it would not be our responsibility.

>> To refer to one of the advisory committees.

>> Correct.

>> Like justice health committee, perhaps.

>> Or Judge Highberger.

>> Very good.

>> Judge Brandlin, and then Judge Herman.

>> I just wanted to join in thanking Judge McCabe and Judge Stout for their views and the Office of Security. That has to have a priority.

>> Thank you. Judge Herman.

>> I just want to compliment Judge Earl, Sherri Carter, Judge Slough, and staff for this effort which is a painful and difficult effort. I would just say that we are working on this year by year, and we have a fund that is inductive balances. The Chief said this is a zero-sum game and the only sources we have for funding our fines and fees, and the Trial Court Trust Fund, and the IMF, and the general fund within the Judicial Council and four years we have been waiting out from underneath funding by the Trial Court Trust Fund in order to relieve that fund, held the trial courts in terms of their funding issues but we have now loaded those programs onto the IMF which is in structural deficit and annual deficit, and it is going to be worse in 16/17 so as a council, I think we have to take this up as a priority issue in terms of how we develop one way or another and the ability to fund so that all the programs that assist our courts that are being cut back or eliminated can be revived. It should be a priority for us. So anyway, thank you for all your good and hard work.

>> Thank you, Judge Herman. This time I call on Justice Miller.

>> I am going to attempt a motion. It is first going to be and this is all what motion to approve recommendations 1 through 6 with the addition to number 1 that the issue regarding security be referred to Executive and Planning. Executive and Planning will then make the appropriate referral to an advisory committee to deal with that. With regards to recommendation number 7, I want to make sure that includes that it is part of that and I think it is in the other recommendations, though, that this motion doesn't eliminate the \$4 million of the complex funds from the IMF and recommendation number 7 would read, "directed the Workload Assessment Advisory Committee to include in the resource assessment study computation of workload need, the paid complex case filings, and propose an interim weight." Leah, I am trying to read your writing. That will be brought back to the council meeting in June of this year. Is that correct?

>> And then, continue on until such time as the advisory committee reviews the validity of the weighting.

>> So that is my all-encompassing motion.

>> Second.

>> Second by Judge ... but can you do that again?

>> [Laughter]

>> No.

>> Directed that we ... I am asking for approval of 1 through 6, number 1. I am modifying this to indicate that the security issue will be assigned to Executive and Planning and they will make the appropriate assignment to an advisory committee, and number 7 would read: "direct the Workload Assessment Advisory Committee to include in the resource assessment study computation of workload need, the paid complex case filings, and propose an interim weight that would be brought back to the Judicial Council at its June 2015 meeting, until such time as the advisory committee reviews the validity of the weighting."

>> Is that one or two but one all-encompassing motion?

>> Yes. Judge Elias.

>> I have a question. You are going to have to do it, but is there going to be an effective date on it that once they do the weighting, this will be effective as of ...

>> July 1.

>> July 1. So whatever weight, it will take effect on WAFM immediately.

>> Yes.

>> You have that in.

>> Amendment taken.

>> Thank you very much.

>> Judge Buckley.

>> Justice Miller, I did not hear you say that 7 would also be adopted. I think the motion says that it will be 1 through 6.

>> And 7 as modified that with the understanding that 1 has been modified also and that this includes the removal of the \$4 million from the IMF.

>> Any further questions?

>> Justice Miller, I want to make sure that I do not think it has gone unnoticed but in the recommendation it includes considering shifting cost from the IMF to other funds as well and not just the security grants. For instance, the recommendation 3 also determines cost recovery viability for some programs on 4. Will those be considered by E&P as well?

>> E&P will make those assignments.

>> Thank you.

>> Debra Pole.

>> Thank you, Chief, and Justice Miller. I just want to make sure that I understand what you just said. Does that mean that we are accepting the recommendation for the complex civil litigation as is suggested in number six? And that there is a modification on number 7 and, in other ways, complex civil litigation would be eliminated based on the funding. Is that what I'm hearing?

>> The line item amount of \$4 million will be eliminated from the IMF. Yes.

>> Okay.

>> All right. And moved over to WAFM.

>> Right. But I do not see any hands raising. I believe that there have been two seconds. All in favor, of the motion, please state so.

>> [Vote being taken]

>> Motion carried. I cannot say enough to the Trial Court Budget Advisory Committee and the subcommittee, Zlatko, and Stephen, and the judges and CEOs how grateful we are for your painstaking, hard work. Thank you.

>> Thank you, Chief.

>> I have another, but there was one no vote.

>> Can you ...

>> Debra Pole voted no.

>> I read your writing.

>> [Laughter]

>> Now we are going to hear Item G which is technology, the V3 interim case management system funding. On Item G we welcome Judge Herman and David De Alba and the chair of the Judicial Council Technology Committee. This is an action item.

>> This is Item G, I think. It looks like we have a technical glitch.

>> What?

>> Help Desk.

>> We need our PowerPoint presentation. We need our PowerPoint presentation up, please.

>> The irony.

>> [Laughter]

>> About Jessica Craven, the JCTC could not function without her so thank you, Jessica. This discussion item here is about the V3 interim case management system funding, etc. So just what we are going to cover is the director of the Judicial Council has been relative to the V3 court process that we have gone through, part of which I discussed in my remarks this morning. Alternatives including seeking funds for replacement of the V3 case management systems and what are considerations were in developing a recommendation and that recommendation and any questions that the judge wants to ... Judge De Alba, do want to cover the directives?

>> This has come before the council on multiple occasions within the last year, as you can see from the PowerPoint. Last April, the council directed that this committee develop a recommendation for what to do with these V3 courts and how to transition them with funding from IMF or TCS sources so that they can start transitioning to their own case management systems. And not rely on IMF or TCS funding. Earlier this year, the Trial Court Budget Advisory Committee also struggled with the matter and I'm sure some of the same folks that were just presenting to you had the same discussion as to how to address the matter fiscally and it was from our committee to offer a technical recommendation and after deliberating with Laurie Earl and representatives from her committee and the Trial Court Budget Advisory Committee, those on our committee were prepared to offer some recommendations to you this morning.

>> Thank you, Judge De Alba, in terms of process, this sort of began when the courts were ... after CCMS was terminated and all collected together in a working group to see what they could do in terms of the future of the Mac to Mac and V3, and they made the directives as indicated by Judge De Alba then we met with them back in August, Judge De Alba and I, after serving the courts about where they were relative to V3 they are after we surveyed the courts again and in January, we started the process and without going through death by PowerPoint, I am not going to hit each bullet point because I did talk about the process that we have been engaged in since the first of the year, in terms of meeting with the V3 courts and working with both with the V3 courts and later with Budget Advisory. So we looked at some funding strategies and alternatives: alternative one work was a sunset of V3 in four years or less. Meaning that at the end of four years, and essentially branch support for V3 would be terminated and there would be an incremental transitioning or there would be incremental transitioning of costs using a cost-sharing formula and we look at a number of different allocation formulas in terms of how to do that. The kind of complication with the V3 and this also complication with sustaining will be addressing at the next meeting is that they are enterprise systems and V3 is an enterprise system and the sustained courts are supported through tech center collectively and what that means in terms of trying to come up with a solution is that until there are fixed costs for both the sustained courts and the V3 courts and until all of the courts rotate off, even if they rotate off on a different timeline, until that last court comes off of the system, we are still paying at the branch level for the cost of ongoing operations and maintenance which is about between \$6 million and \$7 million a year. So we are looking at two alternatives, one is just to have a flat sunset within the period of time or two have the courts pick up incrementally sort of on a WAFM idea of the cost of operation and maintenance and additionally we discussed the different alternatives for how there might be funding in order to get the courts off of these three because, again, because of that issue or until the last light goes off, we end up picking up the cost of the real return on investments as with Fresno and V 2 are not accomplished until the system is replaced.

>> David, may I add, for those that are new perhaps or newer to the conversation of CCMS, we are talking about, we keep saying V3 courts San Diego, Orange, Ventura, Sacramento, and previously San Joaquin which is now since migrated off to a different system so we are not effectively talking about San Joaquin County so those are the V3 courts and Judge Herman and I and Rick Feldstein and Judge Buckley earlier this month, I beg your pardon, last month. March. Conference call with each of those V3 courts to explain to them the necessity. They knew, they had been polled before as Judge Herman had said and offered suggestions and told us about their precarious fiscal situations which we all know. But we conference-called with them with each individual court in March to tell them that these were the proposed recommendations we would make to the court and to the council. And as Judge Herman has explained, initially, because of the funding issues to those courts, primarily, and we should note that three of those courts are donor courts and the impact to those courts of having to pay, transfer costs as operation and maintenance to those courts, and the impact of their having to now acquire and pay for their own case management systems that our committee being sensitive to that would recommend to the council some four year period to end in June 2019 where they would not have to shoulder those costs. But we have, because of the deficit, to the IMF and the trial court trust fund, offered those second portions of the recommendation which is before you in your materials where as opposed to a four-year sunset, where there would be no change in the funding, as you can see in the PowerPoint, number 2 here, that there be some incremental transfer of cost to those courts and as

Judge Herman started to say, the committee deliberated and offered to those various courts various scenarios of how to transfer the operation and maintenance to them based on filing, numbers of users, proportions to their budget, et cetera. None of which were really good; it universally embraced alternatives. So the alternative that we have come to you with today is again an incremental transition but that there would be no shift in funding for this next fiscal year and in other words, that the branch would still support the operation and maintenance and then, in years 2, 3, and 4, I will leave it to Judge Herman to explain what is anticipated.

>> All right. So anyway, you know again as if we are going to assist the courts in some funding strategy to get off of this and invent something that needs to be developed and look to them in the future, there really is no funding out there that is readily available. There is some possibility of V3 courts developing a business case for V3 replacement using, for example, the Superior Court of Fresno County V2 replacement as a model or some other models so you may recall that back when Fresno came to us, they did have a business plan with a two-year return on investment where, although there would be some cost upfront, at the end, they would be offered a system and they have in fact accomplished that and they just went live, I'm pleased to say, with their Odyssey case management replacement system. V2 is no longer being supported and going forward that is saving us about \$6 million a year on V2 so kind of the plan, working closely with Budget Advisory over the next year is to look at some strategies that short-term there might be some cost, but long-term, we are able to save, particularly if we can get the courts off of V3 in two years rather than four years, we would be able to save in those years, \$6 million or \$7 million a year and one strategy that we are going to pursue is a budget change proposal in the October cycle for next fiscal year. We have some positive news from the Department of Finance for this year on the technology project. Department of Finance is recommending to the Legislature by way of a BCP that the funding at the four courts that are now coming online when that is Orange County, Los Angeles County, San Diego County, and I cannot remember the fourth county but they are coming online and the recommendation will mean that it will not have to be funded through the IMF. So these are future things to look at relative to the V3 courts. In terms of making a recommendation to the council, which is a four-year glide path without at least in this first fiscal year, contributions to operations and maintenance, we were looking at a number of equities on behalf of the V3 courts and first of all, under workload under WAFM, three of the four courts are donor courts and Ventura on the other hand is a court with very limited resources who does not have the funding at this point to transition off of the V3 and there are limited staff resources for all of the courts because, like the rest of us, they are significantly reduced as far as their staff resources are concerned. There is a pending, what is called a gap analysis, and Orange County is one of the V3 courts as Judge De Alba mentioned and they are a court that is deploying the Odyssey case management system for their other case types and so they are doing an analysis that will be available in July of this year and it turns out that V3 which is almost an eight-year-old legacy system is a far more robust system for their purposes than anything off of the shelf including the Odyssey system so they are going to be working on this gap analysis with the Odyssey system in order to bring it up to the level of their current V3 system in terms of what it produces and that gap analysis will be something that will be an asset for the 25 courts at this point that are on the Odyssey system and there are a number of other courts that are also planning on looking at Odyssey. So the recommendation, Judge De Alba?

>> Well, as we have been saying, the recommendation is really this four-year period of time where the council would agree that these courts develop a plan for funding or that the council develop a plan for funding for case management systems so that the V3 courts can migrate off of V3 in the four years, although I am sure that the budget advisory committee, the revenue and expenditure committee would, and with good reason I should say, recommend stopping of funding now because for all of the reasons that you heard 20 minutes ago, there is no money but our committee are coming to you with this four-year time period in recognition of the fact that these courts, the V3 courts, were pilot courts that voluntarily agreed to be part of this CCMS experiment and that they have invested by different estimates tens of millions of dollars of their resources for the benefit of the branch. And now, we cannot do that anymore. That is a support of the operation of maintenance so the four-year period with no change in the funding for the next fiscal year but that in years 2, 3, and 4 that collectively this body would be joined in collaborative and deliberative efforts of our committee, the Technology Committee and the Trial Court Budget Advisory Committee, working with these courts, come up with a plan to help them transition to new case management systems.

>> That recommendation is set forth starting in July 2015 and ending June 30, 2019. Branch funding for the V3 case management system will stop until V3 will be funded, the first fiscal year that is the fiscal 15/16 fiscal year, working groups comprised of members of JCTC and a Budget Advisory work together on the source of funding for the remaining three years and this is for operations and maintenance. Questions?

>> Judge Hull and then Judge Rosenberg.

>> Thank you, Chief. I am Judicial Council liaison to Sacramento County and during the course of these discussions we have had more than one discussion with Presiding Judge Hight and the Assistant Presiding Judge Kevin Keohane and they were quite alarmed at first at the prospect of a total cessation of funding for their V3 system immediately. As this has developed and in conversations with Judge Hight last week, it is my understanding that, while nobody is necessarily cheerleading for this, that this is a palatable solution for the immediate problem to continue the funding for one year and then work to reduce it to nothing in the succeeding years and my only question is and of course this is the court of Judge De Alba, too and he can add to this and if I understand Sacramento County's position, is that position shared by the other V3 courts, and are they in the same mindset at this point?

>> They are in the same mindset at this point in the reason for our recommendation frankly and looking at the two possibilities that there is some sort of incremental pay-off of the operations and maintenance costs over a back of time versus a flat period to get off of the system is kind of counterproductive to say, okay, look V3 courts, yes, you were early adopters of V3 and you took one for the branch. But now we want you to transition off and at the same time, that you transition off of the system, we also want you to start paying increases and I say this because they are already paying operations and maintenance costs through their so-called Schedule C contributions and we want to bump up your payments so robbing Peter to pay Paul and taking money away from the courts by way of their operations and maintenance budget and also saying, well, you have to now also pay the cost of replacing that system. With whatever the system of your choice is.

>> Judge Hull, as of yesterday, we have received letters from Sacramento and from Orange County supporting the recommendation before you.

>> Judge Rosenberg and then Judge McCabe and we have Richard Feldstein.

>> Thank you, Chief. I have a question and then a comment and the question is, how much money are we talking about for the next year and then, for the succeeding three years? What is the dollar figure approximately?

>> \$6 million–\$7 million for the next fiscal and in fact what we are doing in terms of the funding is we are keeping it flat. That is, it will stay flat. It will stay the same as the 14/15 year.

>> All right.

>> Then come in the out years, that is the discussion between us and budget advisory and the V3 courts about where we go from there and we know that the numbers will be there at some point, and we have done a lot of deferred maintenance. So that will be an issue down the road.

>> Judge Rosenberg, I agree that it is about \$26 million or \$20 million and so about the \$7 million per year, I would say \$26 million–\$20 million for the four years but I know that Marc Trestman has been working with trying to reduce the cost of them, and I think you have heard reference to that earlier so we are saying that \$6.5 million–\$7 million with the hope and expectation that it would be reduced.

>> Here are my comments. On balance, I do support the recommendation that is being proposed. But as has been said several times today, and in previous days, we are dealing with the zero-sum game and I am concerned about the decisions we are making on a case-by-case basis as opposed to making decisions with an overview of all of the needs of the branch. You know? Today, it is the V3 courts, an hour ago it was complex civil litigation. A couple of months ago, it was another issue, and we want to support all of these but if we truly are dealing with the zero-sum game then we should not necessarily be dealing with the first one coming through the gates but we should be looking with a total overview of all of the needs.

>> Thank you, Judge McCabe.

>> Thank you, Chief. Most of the V3 courts appear to be transitioning to a new case management system with the exception of Ventura, is that correct? And two, what is their position, that they do not have the funding because there is nothing defined? Are we looking for BCP to help bail them out because in essence you are telling them that we are going to pull the financial plug and they have got four years to live and then what?

>> The answer is yes, all of the courts presented their budget information and like all of the other courts in the state, the requirement that they contribute a percentage towards operations and maintenance is going to be a financial hit. I will add as well that is kind of a timing, it is difficult given that we have got the fiscal year starting July 1 for those courts in terms of their economic

plans all of them have presented a picture that the contribution toward operations and maintenance would be a significant hit if it is 20% for example.

>> Right. Sacramento is going to a new system if I'm not mistaken.

>> Correct.

>> And then Orange has already been on civil and now they are going in other areas. San Diego is working on a transition as well as Ventura, of the five that we've talked about. San Joaquin has jumped in there already into Tyler, but Ventura has no transition, no funds, and I have not heard anything that addresses the issue other than we are going to roll the dice each year, hoping that money comes in and Judge Back, my friend from Ventura, maybe he can answer that question.

>> You got 1 out of 2 correct. We have the funds and the first one is not correct. We have been engaged with Tyler for about seven or eight months and engaged deeply in this for them to tell us that we cannot do as well as what we have got already but we understand that we have to get off and it is, I heard that Betamax was better than VHS.

>> [Laughter]

>> The time was such that VHS took over and so we have got V3, which works a heck of a lot better than what we had been negotiating with Tyler. So we have been engaged with them and we have had presentations by all three so Sacramento has got ...

>> Something.

>> Something and we have Tyler on several occasions, in the process for the last six or seven a month but the second point is right.

>> And I just, as a point of information for everybody, because if you recall, WAFM started out this way as well and it is going to be a five year-glide path and we can all work with it and everybody sing Kumbaya and holding hands. And then, as time went along, that has dissipated and our reality starts hitting fiscal year after fiscal year and now it is more of a family reunion, one side getting ready to beat up on the other and not a particularly happy one, and I'm concerned about Ventura that there is no end game.

>> Two additional things and what is that you should have received a letter in the last couple of days that indicates he is fine with us and as two, who we reach first out of the gate, the get started in about 2005 or 2006 for Ventura so we would be happy to have \$5.6 million back of what the tens of million dollars were and I use that as an example as to what the courts have put in but yeah. We are all hamsters but then think that we do not have the ability with the 1% top on our reserves to build up the funds to purchase the Tyler. We know that with \$3.5 million, Ventura would be able to implement what Tyler had to offer to us so I think that all four of these courts are, in fact, engaged and proceeding with an end game that should fall within the four years and that is what I understand.

>> I want to be mindful of the time so I'm going to call next on Judge Rubin, Justice Ashmann-Gerst, and Judge Hull.

>> Just a quick comment to answer one of the Judge McCabe questions and I support this motion and I think 48 months is the minimum amount of time it would take to transition over and I am from a court that is transitioning and this is a very disruptive process, and the learning curve is steep, and you tend to do your departments one after the other and not together because it is service disruptive and if you look at San Diego we are already booked out 36 months and that does not even include the V3 piece, and if you add them back on, this is not like downloading WordPerfect for those that are new to the conversation or I'm sorry—I guess I use Word—and then flipping the switch and it comes and takes months and months of preparation and time and 48 months is the minimum amount of time and even this is going to be a crash course to get it done on time.

>> Thank you. Justice Ashmann-Gerst and Judge Hull.

>> Just to indicate since I talked this morning about Ventura, they really do feel that they are caught in the middle of all of this and their four year plan is to get off of the V3, which they like the plan very much. They support the plan but the cost of \$7 million a year to support V3, they say they have no money and no reserves in order to do it. By other question is, as Judge Rubin says, that is a minimum four years, is that really a fixed period of time or is that flexible depending on what we see that budget actually become? Right now, that three years, that is speculative, no one knows if there is going to be any additional money or not so what is the future plan if any beyond that?

>> There is no money. I mean, that is our problem. The problem again is V3 used to be funded by Trial Court Trust Fund, and we moved it over to the IMF. In order to give relief to the trial courts and to the other trial courts, it is now under IMF and IMF is a deficit to the extent that these courts, I mean, it is a tough problem to the extent that these courts cannot go forward and invest in infrastructure, technology, or otherwise because of the 1% fund balance issue; there is no brilliant future way out. So that is why we are sort of in a one-year holding pattern to work together with Trial Court Budget Advisory to work together with potential legislative solutions etc., but there is no slam-dunk answer to this long-term. I mean, again, given the discussion we have had about IMF, we are kicking the can down the road.

>> I do not want to keep repeating ourselves here on issues, but there are other people that wish to be heard and I apologize, skipping Rick Feldstein, and I'm going to hear from Judge Hull.

>> Thank you, Chief.

>> Make the measure.

>> I agree that the outlook for new money is bleak but I think we also have to think about the money that we are actually going to spend that is laid out in these recommendations. As I understand it, the cost to maintain V3 just from the Judicial Council site is about \$7 million a year. That translates to almost \$30 million over the next four years, not even including the

money that each of those courts are kicking into the schedule C. To me, the worst-case scenario is that we continue to do that and waste \$30+ million dollars on a system that is not the system of the future and I think our challenge is to find a way to get, as Judge Herman says, to get all of the courts up at one time in the shortest period of time so that the money that we would be spending at the out years can be shifted to that year for the betterment of the branch as a whole and I think we have to put aside who is going to pay for what and come down to the best business case, what makes the most sense from a business point of view to get these folks off of the V3 onto a new system and then we will figure out how it gets paid for and who is going to pay for what but I think that we have to go through that first step first and that really should be our focus.

>> Thank you. I will hear from Judge Hull.

>> Thank you, Chief. I moved to adopt the recommendations of the Technology Committee relating to V3 interim case management system funding as set forth on page 2 of their report to the council.

>> Second.

>> Second by Judge Nadler. Any further discussion? All in favor. [Vote being taken]. Any opposed? Motion carried unanimously. Thank you for that explanation of the motion and the recommendation. We are going to defer the item to a future Judicial Council meeting and that is trial court allocation restoration of benefits and here is Item I: Juvenile Dependency Court-Appointed Funding Reallocation but before I bring the panel up, I believe you may at this time care to turn it over to Judge Miller for the public comments.

>> We do have public comment on this matter and it is something that is very important, and we have a number of individuals who would like to speak and the first speaker will be Rhonda Burgess who is speaking for a group so the Honorable Rhonda Burgess will have three minutes and if she could come forward and then Shawna Schwarz. Shawna Schwarz, if you could meet at the gate right there, we will have you next. You may proceed and you have three minutes. Thank you.

>> All right. Thank you very much. Good morning. My name is Rhonda Burgess and I am the presiding judge of the juvenile court in Alameda County. Thank you for allowing me the time to address the council. Letters on this issue have already been submitted to this body from Judge Winifred Smith, our presiding judge and Leah Wilson, who is the court's Chief Executive Officer. Judge Smith is currently working on the court-appointed dependency workgroup with CEO Wilson, staff, and the court dependency council working group, and helped develop the methodology that generated these findings and recommendations in 2007. I have had the benefit of speaking extensively with both of them about the issues and considerations which were on the table in 2007, and the expectations of the workgroup, regarding future considerations that would be important for the council to assess and consider moving forward. Today is that future. My comments relate specifically to recommendation number 7, which advises that a joint working group of the Trial Court Budget Advisory Committee and the Family and Juvenile Law Advisory Committee be established to review the caseload funding model for court-appointed dependency counsel. In order for this to be useful, it must be convened immediately to inform the planned

fiscal year 2015/2016 reallocation. To move forward on an allocation of this size without taking into account the current landscape, and to base it on outdated data from 2007, I think, would be injudicious and ineffectual.

>> One minute.

>> Particularly since the data is available and could be used to produce an accurate picture of the funding needed and it is difficult to imagine any benefit that could be realized otherwise. I urge that the consideration should also include all aspects of the current model, not just the number of cases, but also the financial assumptions and underpinning the model. All of us in this room share an understanding of the value and benefit to children and families.

>> 30 seconds.

>> On this important issue and irrespective of the impact of any particular court or courts, sound public policy suggests that if the current data is available, that it be used as the basis for any reallocation methodology. Thank you.

>> Thank you. Judge Shawna Schwarz and then if I could have Andrew Cain approach the swinging door.

>> We have a minute and a half. Thank you.

>> Good morning and I'm Shawna Schwarz, supervising judge of juvenile dependency court in Santa Clara County and supervising there for about five years but have had the pleasure of spending 11 of my 13 years on the bench in juvenile dependency. I want to speak to you about recommendation 2, first of all, looking at these new applications over the next four years. We understand that the first year is probably inevitable and it is going to be pretty painful, but before the council votes on years 2 through 4, I urge you as Judge Burgess did to take a hard look at recommendation 7 and not just review the methodology but to actually revise it based on data that is available to you now rather than going with the current methodology which is based on stale data and has not considered some of the new laws that have increased caseloads as well as the fact that these courts take more time but are more beneficial to parents and to families. 2008 is when Santa Clara County joined a draft and I think that our county is an example.

>> 30 seconds.

>> We have amazing reunification rates for families because of the drive to fund our attorneys at a rate that was not ever funding but that intentionally planted them to address the concerns that were brought up by the media back in 2008 when we were all viewed under a harsh light and I urge you to look at the families and children, not turn back the clock to 2008 when things were not going as well as they can be going, and all counties are underfunded, but please look at recommendation 2, the years 2 through 4 need to be addressed in an appropriate fashion.

>> Rather than making the cuts as recommended. Thank you.

>> Andrew Cain, and then if I could have Jill McInerney come forward and stand at the gate.

>> One minute and how. Thank you.

>> Good morning, members of the council. My name Andrew Cain and I'm supervising attorney with Legal Advocates for Children in San Jose and our firm represents approximately 90% of the children in Santa Clara County juvenile dependency system and from the perspective of the county not in crisis, I come to you today to speak of successes, acknowledge realities and asked the council to take a measured approach to these recommendations. And the approximate seven years that my County has been a part of the draft program, we have seen the caseloads are fairly manageable, turnover is minimal, clients are contacted more frequently and attorneys are better prepared. Notwithstanding these achievements, I have come to accept the reality that relocation is inevitable and inequities in current funding distributions exist and they must be addressed. These inequities intersect with other realities, namely our involvement on a larger set of that is woefully underfunded at the politics governing efforts to secure the funding gap. Balance it with the backdrop of the aforementioned damage and methodology long overdue for revision.

>> 30 seconds.

>> It leads to the following conclusions that a one-year reallocation as recommended by the Trial Court Budget Advisory Committee, as appropriate, not only will begin the process of healing the crisis but it will be a show of good faith to inequities of interest and the methodology used must be reworked in a timeline that balances the need for the working group to consider all information, provided to have enough time to make budget decisions, and Sacramento to have enough information to consider proper funding, and three, and decisions beyond fiscal year 2016 should be deferred until after the council has adopted a new methodology.

>> Topics but I thank the council for the opportunity and its attention to this issue.

>> Thank you very much. Jill McInerney, who is speaking on behalf of a group. Three minutes and then Jennifer Turner could come to the swinging door. You may proceed. Thank you.

>> Esteemed members, on behalf of San Francisco Counsel for Families and Children and with a unanimous support of the Bar Association of San Francisco, I am asking the Judicial Council to fully fund dependency attorneys statewide and request that a new funding methodology be developed within the next year. The council has a responsibility to get this right. Because, as dependency attorneys, what we do and how we do it sometimes makes a difference between life and death. Every dependency practitioner that I know recalls a family in their hearts. A mother killed at the hands of her abuser after obtaining a restraining order, an infant to return home too soon and died from unexplained causes. What we do matters and what the council does today matters. We can all agree that there is intercounty fighting about how to divide up insufficient resources, yet regardless of where a child or parent lives in the state of California, he or she should have access to a highly qualified, well-resourced attorney. We understand and appreciate that this council is willing to do whatever it takes to gain additional funds from the Governor but while the Governor may not care about the details, we do. The current funding methodology must not only be reviewed, it must be completely revised. San Francisco is standing up today

because we are being told that we have more money than we need to adequately represent parents and children. This is simply not true. We should not act without solid data and an accurate economic model. This factor is highlighted by the child court budget advisory committee specifically outlining some of the many flaws in the current model and we know that there is no parity in salaries for attorneys to represent parents and children versus those who represent the agency, and in San Francisco city attorneys earn almost double that earned by children's and parents' attorneys. We know the calculation for overhead cost is completely ...

>> One minute.

>> In San Francisco the cost of commercial real estate has risen by 100% since this model was developed. We know that the current method for counting dependent children in this county is grossly inaccurate and in San Francisco we have over 800 more clients than the current funding model attributes to us. If even these three data points were corrected, San Francisco's budget would be completely different and probably not subjected to any cuts at all. This is the problem statewide.

>> 30 seconds.

>> The percentages on the spreadsheets before you are false and a revised, trustworthy methodology must be developed. Before confidence in the Judicial Council and a distribution of funds is restored, this council must require the joint working group to develop a new funding model within the next year. This council must come back next year with new funding recommendations and new money from the Legislature. This council must fully fund dependency representations statewide. On behalf of the Bar Association of San Francisco and San Francisco Counsel for Families and Children, I thank you for your deep consideration.

>> Thank you.

>> Jennifer Turner. And David Meyers is next.

>> One minute and a half.

>> Good afternoon, ladies and gentlemen of the council. Thank you for the opportunity to address you today on this very important issue. I'm going to go quickly because I am in full support of what Ms. McInerney just shared with the council today regarding her position and San Francisco's position on where we are today with the dependency counsel crisis. I believe that there is more agreement in this room than may readily be apparent, and I think everyone agrees that the current funding model does not work and we have got counties in crisis and no one denies that. But we also I believe all agree that the proposed model that is part of today's recommendations also does not work. It is based on faulty data. No one is here to dispute that. On behalf of San Diego's dependency legal group, I'm asking that the court, excuse me, that the council require that the new methodology be developed by the joint working group by next April so that we can look at those results before this ...

>> 30 seconds.

>> Before the council implements plans to transition away from the existing funding model, we understand that there are political realities that must be dealt with and we understand that that might entail a first year cut to most of us. But we would ask that the court not act on years of 2, 3, and 4 until it has in hand a substitute model that it is reliable. Thank you.

>> Thank you. David Meyers. And Marcy is next.

>> One minute and a half. Thank you.

>> Thank you, your honor. Ladies and gentlemen of the council, my name is David Meyers and I'm the chief operating officer of Dependency Legal Services where we represent children and families in Lake, Sonoma, and Marin, and from 2005 until 2012 I sat right here at step to the Judicial Council and the Blue Ribbon Commission on Children in Foster Care and worked full time as a senior attorney of the draft program. We are in support of the year one recommendations before you and also ask you to revisit this next year with additional funds and an updated methodology which should allow you to take a more realistic look at the state of dependency representations California. What has troubled me throughout this process is the lack of discussion regarding why these funding disparities exist in the first place. This is a conscious and deliberate decision made two times by this council, in 2004 and 2007, based on a simple premise. And investment in quality representation will lead to better child welfare outcomes. This is of course a draft pilot and ultimately programs were created ...

>> 30 seconds.

>> In a moment where the narrative has been shaped by recession and crisis and significant changes to the pension practice, but I ask you to keep in mind as we take next steps is to recognize and defend our successes. One quick example is in Mendocino where children's counsel had never even met with her clients, a small amount of extra money was spent to bring my partner and our CEO there. In that time he spearheaded the establishment of the dependency drug court and took the lead in securing grants for discounted to date that have totaled more than \$3.5 million and the reunification rate has increased by more than 24% of those who participate, average of unification of 13.6 months set on the average cost of taxpayers to house the child and foster care can run arguably about \$30,000 a year and your chart reflects the county is over 100 but it is accurate to refer to the savings we have generated.

>> Time.

>> Return on investment. Thank you.

>> Marcy and then AnnaLisa Chung is next.

>> Thank you. One minute and a half.

>> Hello. My name is Marcy and I grew up in the court system and foster care group homes and the children's shelter. The DA was my attorney and I rarely spoke with her and was rarely transported to my court hearings, and I felt completely alone and lost in the system as I was

being shuffled around from one place to another. In 2005, my own children were removed from me due to my drug addiction and choosing to stay in a domestic violence relationship, and that has completely devastated me that history had repeated itself. I remember feeling so ashamed and most of all I felt frightened for my children that they would be lost in the system with no place. I remember so clearly the first day at court that I was greeted by an attorney and I kept thinking to myself, this is not going to go well. It is going to be just like how it was when I was younger. Instead, my attorney listened to me and gave me clear directions and suggestions and her business card. My attorney would call and set up face-to-face time with her in her office as well as promptly returning my phone calls.

>> 30 seconds.

>> I did not feel alone and my attorney was my go-to person and the time I spent with her made me feel like I made a huge difference in my case. I do not feel alone and it was like I was a youth in the system and I signed up for drug treatment and court which is voluntary. My attorney would be at my drug court hearings as well as my legal hearings. On March 11, 2015, I celebrated 11 years clean and successfully completed my case plan and I have both of my children in my care. I currently am employed as a mentor parent, and I have been for eight years by the same office that once represented me in 2005. And by my experience as a youth and as a parent in the dependency system, it is clear to me that I was successful and my kids benefited from the time and dedication of our attorneys. Thank you.

>> Thank you. Next is AnnaLisa Chung and Robert Patterson is next.

>> One minute and a half.

>> My name is AnnaLisa Chung and I'm the chief executive officer of Dependency Advocacy Center. You just heard from Marcy who is herself a success story. She has since helped countless others achieve similar successes for their families. Her service as a mentor parent in our dependency drug court exemplifies another success. How creative and innovative programs in Santa Clara County are working to support the children and parents that we represent. Counties in crisis must be a priority. The solution, however, cannot be to act first and only then review the methodology upon which a four-year reallocation plan was based. That is not what was done with the WAFM and not a sound approach now. Approval of the first-year 1090 reallocation appears to be an inevitable step towards reengaging the Legislature in the significant adjustments proposed in years 2 to 4.

>> However, it will gradually but certainly begin to undo the successes like therapeutic drug courts and the mentor parent program that are improving outcomes.

>> That can be avoided by the prompt development of a current and accurate methodology. I join with my colleagues who you have heard today and request that this recommendation that calls for a mere review of a model to be flawed instead requires a development of a new methodology. We ask also that this council stay from recommendation to any reallocation plans beyond fiscal year 2016 and have the new methodology to inform further reallocation and

support, and a more accurate funding request to the state in FY 17. Thank you for your time and consideration.

>> Thank you. Robert Patterson and next is Dane Burcham.

>> Thank you. One minute and a half.

>> Thank you. Good morning, honorable members of the Judicial Council. My name is Robert Patterson and I am counsel in Santa Cruz and I have two associates as minors counsel and I also am your speaking on behalf of parents' attorneys. It is our hope that the large counties that need financial help to improve the results can be assisted without decimating or so reducing the level of services provided in counties that have proven to be successful. We understand that a contract allocation of 1090 may be inevitable to help the struggling county but this cut will not affect the amount of time, work load, or effort put in by our attorneys in our county. We have a small county. We have some other common issues with other counties and some specific issues to our counties that the funding methodology does not take into account and needs to be looked at before further cuts are made. We have one full-time, dedicated dependency court that is staffed full time ...

>> 30 seconds.

>> All of the attorneys that I've mentioned and currently there are a number of disqualifications against the judge in the court so we have to staff the second court, increasing all workloads. There are other things, changes in the law regarding psychotropic medications that are adding to our workload, as we have to oversee them now under the law with a much greater scrutiny. I agree with all the comments made by my colleagues previous to myself. I will not reiterate those but our dependency court time has used our best practices for years and this is due in part to the...

>> Time.

>> Our attorneys. We urge you to support them.

>> Thank you.

>> Next is Dane Burcham and then after that Deborah Bennett.

>> One minute and a half. Thank you.

>> Good morning, Chief Justice and Judicial Council members. My name is Dane Burcham and I am the executive director of Children's Advocacy Group in San Bernardino County. We are a children's law firm. We have been representing children in the county for the past 12 years. I am here today to ask for your support for further reallocation of funds and for an equitable distribution based on the workload. You have heard today that San Bernardino County is the largest county in the state of California, the fifth most populated, and one of the most economically depressed counties in the state. Having settled that, we are one of the lowest funded counties in the state. We currently have three courtrooms hearing dependency cases and

are trying to open a fourth but have no funding to put our attorneys in that court. We have just under 5,400 children in foster care. The number of the cases ...

>> 30 seconds.

>> The number of those children that we represent is between 100–300, and we cover approximately 20,000 square miles of ground in our county. We have to see all of those children and yet we are funded with a limited budget that allows for the employment of five attorneys and three social workers, which exceeds the maximum caseload allowed by five times and this is not only overwhelming, it is impossible. I do not have to tell you that the area of law that we practice is very difficult and it's hard to find lawyers that will practice.

>> Thank you. Thank you. Deborah Bennett. Then next is Michelle Gilleece.

>> Good afternoon. My name is Debbie Bennett, and I'm here on behalf of the dependency attorneys for Merced County. We are here asking for reallocation of funds but when I first started dependency court in 1997, I had 150 cases with a part-time investigator and when it came time for the 2004 time study I was right in line and had 180 cases with a part-time investigator. Ever since 2004, there have been increased responsibilities for attorneys, especially minor counsel and that is who I am. I represent the children to the age of 21, and we represent them in other courts when they are subpoenaed as witnesses to attend IEPs and expulsion hearings. We fight with the school when they have lost credit, and we have to have knowledge of mental health issues, psychotropic medication, educational rights, and LGBT rights. We talk with parents, foster parents, relatives, coaches, but the most important is we need to speak with the children, and without the children and without their trust we cannot help them. My counsel is often the only lifeline for these children that ...

>> 30 seconds.

>> Graduation. I am the only one there for the child and in dire straits in the county, and I represent 575 children and 25 parents and the other four attorneys are part-time attorneys so we are you asking today to help Merced County so that we can help our clients. Thank you.

>> Thank you. Michelle Gilleece and next is Danielle Butler Vappie.

>> Thank you.

>> Good afternoon, Chief, and members of the council. My name is Michelle Gilleece. I came from San Bernardino County on behalf of the parents today and I just want to say that I appreciate Judge Anderson observing that we have a lot of seagulls here before you today, and I'm hoping that you will help us all figure out how to adequately fund and adequately and evenly and equally and equitably split up the limited dollars that you do have to find the dependency counsel in California. The biggest, the most prominent thing that stood out to me today in the packets that you received including the letters was the word triage, running emergency rooms and not courtrooms. This is ridiculous, the caseload that we have as parents' counsel, we have 100–300 clients and those clients call on the telephone and they need our help and there is no one

there to do the work for them. As Ms. Burcham said, there are three open departments in San Bernardino right now for a county of 20,000 square miles and if these people ...

>> 30 seconds. But they have to be on teleconference and get with their lawyers and in the few minutes before court and it is just not workable. It does not seem fair that other counties have to lose some money for us to get some money but when you have a finite amount of money, that is the only thing that can happen and we are urging you to adopt the recommendations of the Trial Court Budget Advisory Committee that were made today.

>> Thank you.

>> Thank you. Danielle Butler and then we have Leslie Heimov.

>> Good afternoon, Chief Justice and members of the council. My name is Danielle Butler and I am one of the law firm directors for Los Angeles Dependency Lawyers and we represent over 22,000 parents and legal guardians in Los Angeles County. Yet we are the only draft county that is not funded at the recommended amount. As you already know from all of the other speakers, the recommended amount is clearly not what our need is. We have attorneys in over 22 courts, some of them have caseloads of 250, some of them are tackling 300 clients. The question is not whether or not there should be reallocation; that answer is obvious. The question is how quickly should this process take place? They should not be a competition among the counties. This Judicial Council is charged with responsible distribution of funds statewide. You must not wait. You must act now. The burden of a restricted judicial budget should not fall on the shoulders of certain counties. We are all working hard and struggling to provide adequate representation to our clients, some of us have just been doing so at a great deficit for eight years. The only equitable resolution for this ongoing mistake is an impactful reallocation now. The harm would be in doing nothing. We cannot wait on the Legislature or the Governor's Office to increase funding to representation without this change. While many of the counties will experience some gradual changes and have to adjust to a new normal, the inadequate funding, we ask the Judicial Council to adopt the recommendation today. Thank you.

>> Thank you. Leslie Heimov and then Michael Burns is next.

>> Good afternoon. I am Leslie Heimov, executive director of the Children's Law Center of California, representing 30,000 children in Los Angeles County, and 3,000 children in Sacramento so I have the distinct privilege of being here as a donor county and as a recipient county today. My Sacramento office will suffer a little bit as a result of the proposed 9010 allocation and my Los Angeles office will benefit a little bit as a result of the new proposed 9010 allocation and then the remaining allocation is going forward over the next four years. I will join in with regard to the council responsibility to the entire state, children that are abused and neglected, parents who are working desperately hard to have their children come back home and do not know anything about county lines and funding ratios and proportions and formulas. They know that they need the help of a competent attorney who has a reasonable caseload and it should not matter where they live as to whether they received that attorney and whether that attorney has the time.

>> 30 seconds.

>> I wanted to very quickly address recommendation number 6 which calls upon staff to develop a program that allows the court to seek reimbursement for cross-related to complex trials and other events, and it was not something that I put a lot of attention to until today but for those of us that have contracts that require us to take 100% of all appointments, additional funds to the court for complex trials and other events will have no impact on our budget or our ability to reduce caseloads or bring in a special attorney for a particular case so if the recommendations are passed today, look at that to be considered as a part of that because it does not necessarily flow to the attorney organization as vendors. We are not necessarily privy to some of the different changes.

>> Time.

>> Thank you.

>> Thank you. Michael Burns. And the next is Mr. Nef Franks.

>> Good afternoon, Chief Justice and members of the council, my name is Michael Burns and I am the administrator for the Juvenile Defense Panel of Riverside County. We have been working with the courts and the AOC for 25 years representing the families and children in that county. Currently, to put it in perspective, because I have heard a lot about how we do not have any current data but we are contracted at \$675 per case to represent children. I do not even know an attorney that would appear on a traffic ticket for that. Okay? Many of our attorneys are minors counsel have caseloads of 300 or 400 cases and when I look at the caseloads that I see that we are funded at 40% of what we should be while other counties are funded at 120% and we are willing to do our part and we have for 25 years but we need help. We are in a crisis situation. Like the previous speakers indicated, the time is now and not for later. What I am going to ask is the council pass ...

>> 30 seconds.

>> Thank you. Pass a motion for reallocation. I do not think that any reasonable person in this room would consider only feeding half of their children while they are given the rest of the food to the other half of the children to make them better off. Please do not fund only half of your attorneys. We need the help and we are asking for your help. Thank you.

>> Thank you. Nef Franks. Next will be Mariah Corder.

>> Thank you.

>> Good afternoon. My name is Nef Franks and I'm with California Youth Connection and we are a youth advocacy group for foster youth, 14 to 24 in California I'm a former youth in the system from 2007 until 2014. I can say that lawyers are needed. I do understand that there is a number problem and I believe that before you make any decisions, you need to come back with maybe more recent, relevant numbers. Everybody has been talking about it and it is right. San

Francisco is funded at 120%; however, I do believe that number is really off and I think that if the numbers are right, it would balance out to maybe being about, I don't know, maybe 50% funded. I am just wondering, when will we get the numbers right? Before you make a decision, you have to have all of the information together. I had a lawyer who saw me when I needed help and when I was in trouble ...

>> 30 seconds.

>> I can say that I can call her to this day being emancipated as a former foster youth and I am just asking before you make any decisions, please go and see your county, do what you can do to bring the numbers back to a meeting, then figure out where that reallocation should go. Thank you.

>> Thank you. Mariah Corder.

>> Hello. My name is Mariah Corder. I'm 15 and I'm from California Youth Connection, representing the Bay Area chapter. Despite coming from a supposedly overfunded county, I felt unheard and unable to connect to make a relationship with my attorney. I had been trying to reach out to her for over a year by e-mail, telephone, leaving messages with the receptionist, et cetera and I had the opportunity in the beginning of that year to exit foster care and reunify with my mother. However, I did not have anyone to advocate for that in court. Therefore, it did not happen until finally I got in touch with my attorney, and things really sped up over the next two months. I am in the reunification process and having my kids in June of this year and there is no overfunded county here. All youth and their families deserve adequate representation and cutting services to families is not the answer. We need to increase the funding throughout the state. Thank you.

>> Thank you very much. That concludes our public comment and I want to thank all of you. Your comments were very important and very informative and very helpful for our discussion.

>> Thank you. And Judge Hull has a comment.

>> Thank you, Chief. Before we get into the Judge Earl's presentation, I wanted to say that as Judge Miller just noted, I'm sure that all of us appreciate all of the very sincere and heartfelt comments made by the speakers who have spoken to us just now and those here in support of those, and I only want to urge you to make those same sincere and heartfelt comments to your local legislators to see if we can get this branch funded properly. Thank you very much.

>> Thank you. This is Item I and we welcome again Judge Earl of the Trial Court Budget Advisory Committee and Sherri Carter, court executive officer, Los Angeles Superior Court, and Don Will.

>> Thank you, Chief. I want to say that we also appreciate the public comment and we had some of these folks provide public comment at our budget advisory committee meeting and we had healthy debate as you can see from the discussion of other recommendations that went before you and it was not a unanimous decision. We struggled with this and I would caution everyone to

understand that the terms that are used here are underfunded and overfunded but overall, statewide, court-appointed dependency counsel still needs about \$20 million more, excuse me, \$30 million more to be fully funded and to be able to meet the workload that these lawyers provide so I would caution everybody about the use of those terms and I think that it is misrepresentative of the overall statewide funding need and because she does such a good job at it, I'm going to turn directly to Sherri Carter and have her walk you through the recommendations.

>> In light of the time, if you need me to do this a little faster, just say so and I will do that. Court-appointed dependency counsel became state fiscal responsibility when it was part of the defined court operations and that was ultimately funded by the Legislature in a trial court funding act of 1997. I went to point out that when that transition from county funding to state funding occurred in 1997, those are the historical funding models that we still use today. So like the Trial Court Trust Fund that was from 1997, that was the catalyst for WAFM. Today we're looking at the same funding model and it broke my heart to see on your consent agenda that Item B on the consent agenda was another funding model from 1997 and that was for the AB 1058. You authorized a subcommittee to look at that funding model and so it is time that we start updating all of those funding models. In 2007, the Judicial Council adopted a workload model of 188 attorneys per client with a .5 investigator complement.

>> 2013.

>> I'm sorry ... what did I then?

>> Client attorney.

>> I am sorry. I am going too fast and I'm going to slow down: 188 clients per attorney. In 2010, the court-appointed dependency counsel was reduced to a baseline of \$103.7 million, as Judge Earl indicated. To meet the workload model of 188 clients per attorney, we would need \$137.1 million so we are significantly underfunded for the whole branch. The interesting piece, I read all of the written comments and there were several comparisons between WAFM and dependency counsel and I want to point out that there is a difference. For the Trial Court Trust Fund, there was not a workload model to allocate the money so we were using the historical model over and over again, which is why we created WAFM. Here, a workload model was developed in 2007, and that has never been tied to the funding. So it is a very different situation for that reason. If you use the workload model, which is based on data and I will talk about that in a minute, we are only at 76% of what funding we would need to have all of the courts at the same level at 76% funded of our needs. So other than that very minor adjustment, the courts are still at the historic levels from 1997. I am going to kind of change my talking points slightly so it might throw you off, but I wanted to clarify something that I think is really important now. It was primarily my suggestion that the workload model be reviewed, and I am the cochair of this dependency counsel subcommittee along with Judge Mark Cope, assistant presiding judge of Riverside County, and we did not look at the underlying workload but we did identify that there were several things that needed to be looked at but when it comes to data; the data is not old. And I know that, the way the report has been written, it sounds like it is old but let me tell you about the data. The main driver of the workload funding model is to have caseloads as reported by each

county child welfare department to the state Department of Social Services. They do that every year. That data is checked and posted on a website by U.C. Berkeley working under contract with the Department of Social Services and that same data is used extensively by the federal Department of Health and Human Services and the state Department of Social Services. Our workload model that these numbers were based on is refreshed every year with that same uploaded data.

>> [Captioners Transitioning]

>> So it is not accurate. It is not old. I think that it is not inaccurate. Because it makes it sound like it's old data, and it's not. It's refreshed every year with a 3-year average. So why did I think that we needed to look at the data? It wasn't the data I was questioning. It was whether or not it was the right data. It's an old formula. So I didn't know whether or not our group didn't know whether or not the child welfare data is the right way to count what should be funded. The real question was: are the numbers as reported by Child Welfare the best measurement? Or should we use court filings or a combination or some other data? That was really the question for me. So I went back after reading all of these letters and actually, I looked at it as cochair. I did a lot of work at my court level to try to understand the data. And I used two real courts that I'm going to call court A, which receives less than 50% of the funding, and court B that receives over 100% of the funding. And I asked Don to give me the most recent child welfare numbers reported through the year end, 2014. For court A, they have 5,800 kids under supervision with funding at \$4.1 million or \$719 per kid. Court B has 1,700 kids under supervision with funding at \$4.7 million, or \$765 per kid. That is the most recent data there is. So I said, okay, if we don't want to use that data and we want to use original petitions or court filings, what do those courts look like and would there be a difference? Court A had 2,928 filings, or \$1,425 per filing. Court B had 567 filings or \$8,289 per filing. So regardless of what we look at, there are disparities in not tying a workload model to the funding, because we're still using historical levels from 1997. So I wanted you to have that information about the filing data before I go into the recommendations, because I thought that was important to clarify, because it seemed to be unclear and I thought there was a misunderstanding about the data being old. It's not old. It's updated every year, a 3-year average is applied and I've now given you two examples if we used a different model with the same to court and what it would look like. So I'm going to go directly to the recommendations unless anyone has questions on the data. Okay? The first recommendation is that the Judicial Council approve a process to allocate dependency court-appointed counsel based on the workload model. Now, could the workload model be reviewed and refined? Certainly. We still do that with WAFM. We still have things where we're making adjustments, but we recommend that we commit ourselves to using a workload model in the future to fund dependency counsel funding. The second recommendation is that the existing funding be phased in over four years. The first year next year would be 10% based on the workload model and 19% based on the 1997 historical model. 16.17 would be 40% workload with 17% based on the historical model. With 20 being the historical and that in fiscal year 2018–2019, all courts would be at the same funding level. We are hoping that as we get new money and you'll see it in a recommendation, that as we are reallocating our existing funding, as the Governor and Legislature provides more money, we're all going to get up to 100%. The goal is we want to be at 100% for every county. Recommendation three is that any court-appointed dependency counsel funding that is estimated to remain unspent at the end of each fiscal year be reallocated

to the courts by workload using the formula that the Judicial Council approved in January of 2015 and that this become a permanent policy. Specifically, what you approve was that the caseload model would be used, that unspent money would go to courts that are 90% or below of this average state funding model, they would receive 50% in January and the remainder in April. I want to point out this is one-time money. It's a good thing for some courts who have to use their local money to actually pay their dependency counsel as they don't receive enough. But it is one time in nature and it does not allow people to hire additional attorneys or to do anything else to make more permanent structural changes. Recommendation number four, which I consider the accelerant to this, is that any new state court-appointed dependency counsel funding above the current statewide level would be allocated to courts with a ratio of a historical based funding to workload based funding that is below the statewide average. To say it another way, next fiscal year assuming there's no new money and I hope that's not true, if our funding stays at \$103.7 million, we are at 70% of our statewide funding level. Courts that are below that level would be allocated any new money above \$103.7 million based on their percentage of being under the average statewide funding level. So that would accelerate the courts below the average to catch up and at some point, we would all move up together. So that's what that recommendation would do. Recommendation five would be to have Judicial Council staff develop a process to reimburse courts for unexpected and significant costs. That would include a reserve of \$100,000 to be maintained by Judicial Council staff. It would also require Judicial Council staff to develop guidelines with an application and reimbursement process. That any unspent funds in reserve would roll over until the next year and that we would try to maintain this \$100,000 reserve level. And that that process be approved by the Judicial Council by April 2016 so that it would be available the following fiscal year. Our sixth recommendation is to provide the Superior Court of Colusa with court-appointed dependency counsel funding. Their county has realized it's a state responsibility and they have notified them that beginning next fiscal year, they will no longer fund it. So we recommend that we include our sister court Colusa and that we fund them at 76% of the workload-based funding, which is the level which is the average state level of course as money goes into the system, Colusa would move up with the rest of us. Then the seventh was to form a joint working group with the Trial Court Budget Advisory Committee and the Judicial Law Advisory Committee. Again, not necessarily because there was some distrust of the data because as you've heard me say, the data is fresh, it's new, it's updated every year. There's a 3-year average. But because we need to be committed as a branch that we look at all of these funding methodologies and workload measurements on it by at least every other year to keep them fresh so that we're not looking back 10 years from now wondering why we hadn't done it because our funding was always based from historical levels of 1997. Things to be included: should the attorney salaries continue to be based on an average salary by region, or some other index? That it be by county? Whether the attorney salaries should be updated? Whether the benefit cost and the model are accurate or whether they should be changed? Whether the calculation of overhead costs should be updated? Whether the state child welfare data reported by the county is the best method for gathering workload data, or if court filings are a combination that should be used? And whether the ratio used to estimate parent clients in the model is accurate or if it should be changed? And whether this is the right model for small courts? We thought that needed to be looked at too. We also said that these recommendations should be done very quickly so that they could be taken to the respective committees in time for the council to review the final recommendations in April of 2016. So that summarizes the recommendations. And I'm happy to answer any questions.

>> Justice Hull?

>> Thank you, Chief. Ms. Carter, you mentioned the allocations in the event we did not get new money in succeeding fiscal years. And under recommendation 2, the step up, if you will, workload-based funding versus historical funding which is set forth there, I was wondering under WAFM, we established a system where any new money that comes to the branch for our use, is allocated 100% on the workload model. Would that be the same here?

>> It would. That would be recommendation four: that any new money would go 100% to those counties where their funding is below the average funding for the state. So the average funding level for the state right now is 76%. So if we receive new money next year that would go 100% to all of the counties that are below that 76% level.

>> And in succeeding years, that would continue until ...

>> At 100%. So when that new money comes down, hopefully the averages will rise as we do the reallocation. And as new money flows into dependency counsel, the average will rise every year—we're hoping—until we reach 100%.

>> Thank you.

>> Next we'll hear from Judge Rubin, then Judge Anderson, then Judge Stout, then Judge So.

>> I do have a dated-related question but I wanted to hear the whole presentation first. It's been reported to me, and I want to ask you about this; in fact, the example was given of San Diego, the data being used was the current budget money, the budget number was correct but that the caseload information came from 2006–2007. Your reporting the data comes from a centralized database? Was there any effort made to test the accuracy of the numbers we're getting from the centralized database to make sure they are up to date?

>> Don?

>> The working group of the committee discussed that and decided that it was too big a task to tackle in a couple of months and also that the Family And Juvenile Law Advisory Committee should be brought in since they would be talking about the content of the program. I would say that data was cleaned and tested by a number of folks in the executive branch and U.C. Berkeley, so it is looked at pretty carefully. But I think it does need to be reconciled. And as Ms. Carter says, it is the right data source for the workload model.

>> Judge Anderson?

>> [Indiscernible -- low volume]

>> You are not on.

>> Not on?

>> Nonetheless, I'll try to speak up. Thank you to the speakers. I do have a couple of questions for the group. First and foremost, I know folks do not care for the language of overfunded and underfunded. Is there a way to describe what we're doing as percentage share of funding allocation available as opposed to overfunded, underfunded so that we can describe to people in terms of what their share is based on what's available as opposed to over and underfunded and maybe get rid of those words? I know that's difficult to do.

>> I reviewed the materials while I was trying to find the word overfunded and I didn't find it in the materials. I found it in the written comments. But in the Judicial Council report, I can find those words. I actually put in talking points to define what that means but was trying to help you with your time crunch. As the Judicial Council materials indicate, there are 26 courts that receive an allocation of more than 100% of workload-based funding. That does not mean they are overfunded. What it means is that those courts receive enough money for an attorney to have an average caseload of 188 clients or fewer. That's what that means. There are 16 courts that receive an allocation ranging from 50% to 100%. That means the attorneys in those counties have an average caseload higher than 188 clients. So I didn't see the word overfunded and underfunded in the Judicial Council report. Just in the written comments.

>> Thank you for that clarification. Where is the language coming from and where is it being used? So that we're all clear. Sometimes when we hear things, we adopt it as fact.

>> I did not word search it but I did review it twice.

>> Okay, thank you for clearing that up. Maybe the language will change in time. And I know the overriding decision of what we're going to do today is how do we adjust percentage share to better equalize access to justice? The other question is how fast do we adjust for equalizing percentage share? That's what we're doing today. My second question: is there a disadvantage or what are the disadvantages to revisiting the percentage share rate for 2017–2018 and 2018–2019 last year as opposed to what's listed in B, C, and D? What are the advantages and disadvantages of leaving B, C, and D blank versus what you have here?

>> I'm going to ask you, if you would please turn to attachment one? I'm going to ask you to consider Kern County, because Kern County is the most under-resourced county in the state of California. Next year, when WAFM kicks in at 30% based on workload, Kern County will still be 40% underfunded for the Trial Court Trust Fund site. If you look at Kern County, they only receive 65% of their need for dependency counsel. And so I looked at Kern County. And actually found out that because they're so underfunded in this area, that's a bad word because they needed more money to pay their dependency counsel. They spent \$276,000 of their local funding last fiscal year for dependency counsel. So that means our most underfunded county in the state of California, which also does not receive enough money for dependency counsel, had to spend \$276,000 of their very limited money that could have been for staff for dependency counsel. And so I would ask you as council members to consider those kinds of stories when you make the hard decision on the reallocation for the four-year phase-in.

>> Basically what you're indicating, I think she's going to answer as well, I might not have the follow-up question.

>> You asked, what are the advantages or disadvantages of waiting? And approving a reallocation in year one but holding off on the other three years? I think what Sherri has described is by waiting, those courts that aren't getting enough money are waiting to figure out if they do or if they have to use money out of their own budget and these decisions come late in the fiscal year, April. It does not allow them to plan in order to see what's coming. At least if they know next year, and in 2017–2018 we're getting a little bit more money, they can make decisions differently.

>> Thank you very much for that explanation. I think it assists us in looking at B, C, and D to know that it's not something that just came out of "let's look at arbitrary, capricious numbers" but consideration for budget and planning, as well as trying to equalize access to justice and sometimes it's extremely difficult to get there but we've got to get there some kind of way.

>> When the working group gets together and comes up with perhaps a change to the model, this, I think, would have to be revisited next year anyway.

>> Okay. Judge So, then Justice Ashmann-Gerst, then Judge Rosenberg.

>> I noticed that number two, it's recommended 15 in favor, 13 opposed, so it was a very close vote. Is there a reason why four years was chosen as opposed to the five years? Or six years? It seems that one of the issues that's out there is there's not enough money, period. And we're going to make everybody mediocre. Or less. Unless we get more money from the Legislature. And the council needs to make a conscious decision as to whether or not everybody is going to be underfunded. And so is there any reason for four years as opposed to six years? I guess that's my question.

>> I'll have Sherri answer that because I was not present when the work group considered that. Obviously I was present when the budget committee considered that. There are no winners and losers in this. Frankly, I thought four years was too long. If you look at courts living at 9%, waiting four years for them to get up to 50% of their funding need is absurd in my opinion. I think is not aggressive enough. But I recognize the other side of that. I think you said something very important. That is, we're all being forced to work at mediocrity. But it's not the council that's doing that. It's the Governor and Legislature who are not making this a priority, in my opinion.

>> To directly answer your question, there was no magic number to the four years. We did look at various options that actually went from two years to beyond two years. And four years is where it ended.

>> Justice Ashmann-Gerst, Judge Slough, Deborah Pole.

>> I want to thank everyone for coming who spoke and letters received and assure everybody that we've read every single letter and have considered all of the issues. The question I have for the panel is, is there a thought to including (or has it already been done) the increase in the appellate caseload? Because they are the same lawyers that are in the trial court and they are also

handling the appeals. In front of us. Our caseload in L.A. is 20% dependency cases. I was wondering if that's being factored in the computations?

>> The short answer is no. It's not part of the existing workload model because this is for trial courts. And I don't really know how they are funded at that level. Don, do you? The answer is no. I'm sorry.

>> Just to bring attention to it, perhaps there could be a focus in the future on that issue.

>> Judge Rosenberg?

>> In the interest of time I'll make this really quick. I need to go back to basics. I thank you for the report. I think a lot of thought went into it but a lot of this is based on a workload model that was developed in 2007 before most of us, maybe any of us, were here on the council. I'd like to see that workload model. I'd like to see what it's based on. Not necessarily in terms of decisions needed to be made today but long term, as we revisit the subject, I'd like to understand what that decision was based on.

>> I think that would be the point of the workgroup since it was a model developed by the Family Juvenile Law Advisory Committee; it wasn't the budget committee involved.

>> But it came to the council in 2007? And the council approved it? I'd like to see it.

>> We'll get that for you. Judge Slough?

>> So I respectfully ... you are doing me in, man.

>> [Laughter] -- dinging on me, man.

>> I lost my train of thought. That was very well timed. I just want to say that I must respectfully disagree. What we're doing is bringing counties that are better funded down to the level of mediocrity. We cannot, as this council sits around this table, look at the numbers that we have before us today, and see that there are counties that are being funded at 20% of their need, and others that are funded at a much greater percentage, and say that to bring them up, is to bring them down. To the level of mediocrity. I think it is, to provide all of our children and their families, up and down and across the state, the proper, adequate, well-trained, and sufficient counsel to represent them. Thank you, Chief.

>> Deborah Pole, then Judge Stout.

>> Thank you, Chief. I'd like to go back to attachment one, please. dependency counsel funding dated April 17, 2015. If I look at the column from fiscal year 2014–2015, there is an unallocated amount of \$651,000-plus dollars. If you see that, has that money been allocated? If so, when? If not, why hasn't it been? What's the point of this unallocated money when we have people on counties that are underfunded?

>> Folks have mentioned the draft program which is a program where the Judicial Council directly manages dependency counsel funding and contracts for 20 courts. And that amount is the amount in the draft budget for those 20 courts. It's not allocated specifically to any court, but it's used when they have extraordinary expenses or conflicts. It has either been allocated to courts or in the process that the committee went through in the council approved in January. It will be reallocated to all the courts in need if it's not encumbered by this money.

>> So because you said fiscal year 2014 through 2015, will it be reallocated or disbursed to some county this year by the end of 2015?

>> [Indiscernible -- poor audio] This year.

>> Okay. Thanks.

>> Thank you, Judge Stout?

>> Thank you, Chief. My respects to Judge Earl and Sherri Carter for some incredibly challenging work here. And the staff, I've known Mr. Will, working together in the foster care commission, extremely talented and caring and with the utmost respect. [Indiscernible -- poor audio] recommendations one and two. I understand the Governor's desire for some immediate implementation. And I certainly understand and respect that. And appreciate that I think the Governor [Indiscernible] if my information is correct. And I think our number one priority really has to remain with attaining more funding from the Legislature and the Governor. When we talk about this working group and looking at the methodology, as I understand it, some of the economic indicators used were maybe back in 2004, quite frankly, Chief Justice's blueprint, \$33 million, we look at that, just the economic indicators, we're going to raise that \$33 million. I'm quite sure. [Indiscernible -- poor audio] needs to be with obtaining more funding. I was pleased with our brief discussion in August with the director of the Department of Finance. I was encouraged by that dialogue. And I certainly appreciate the Governor's recognition of this issue in his budget proposal comments. But I feel compelled here to state the obvious. We're talking about the need for competent—I underline competent—legal representation for some of our most challenging and important cases. We're talking about the government's intrusion into the sanctity of the family and removing children and potentially terminating parental rights, and of course, on the other side, the protection of our most vulnerable children. I think we all agree there are significant historical funding inequities that need to be promptly addressed. And we do need to shift to a workload model. There's no doubt about it. In light of our recent efforts to eliminate historical funding inequities and the allocation of trial court funding and our recent adoption of WAFM, I would certainly hope that the Legislature and Department of Finance and the Governor would trust us here that we're going to expeditiously and diligently work toward rectifying these historical inequities and dependency counsel funding. I think we need to get it right. Instead of delaying recommendations one and two, I'd come around to what some of the earlier speakers have advocated: to adopt the recommendations, but as I understand, delay implementation of years two, three, and four, put the pressure on to get the workload or the working group comprised and working as expeditiously as possible. There's talk about having them come back at a time when this council will be prepared, by April 2016, and what I'm hearing from our speakers and certainly understand, get back much quicker. They'd love to have

it by the end of this fiscal year. I don't know if that's realistically feasible. I would hope it would be because I understand some of the budget planning concerns that have been raised. Again, I'll use the term overfunded and underfunded. I appreciate the clarification. A small [Indiscernible -- poor audio] 188 cases per attorney. The chart indicates based on percentage [Indiscernible] significantly over the amount that would be allocated under the workload model. I know personally that we are the middle of a multiyear [Indiscernible -- poor audio] to recruit and retain competent attorney was to use our former reserves, frontload our funding in the first year, pay a higher amount of funding than we're paying in the second and third year. There's no way in the world that what [Indiscernible -- poor audio] for the amount of money being allocated under this particular model, let alone 75% of it. It just isn't going to happen. I agree the methodology does need to be reexamined or revised. And I appreciate among the items listed in recommendation number seven, page three, to look at the methodology used for funding a small court. Much like we did with WAFM, the committee and the council are recommending a minimum funding for small rural courts. Given the different funding models for the penalty, I don't know that a minimum funding is necessarily the right approach here, but I certainly appreciate there's definitely a need to examine that issue and I hope very quickly, and come up with an appropriate modification of the methodology used for funding the small rural courts. [Indiscernible -- poor audio] to look at the written comments of Mr. Meyers, the Judicial Council fact sheet that he prepared and correspondence of April 14, I believe it was, I think his points are very well taken. I am prepared to move at this time, adoption of the recommendations but stay implementation of the rollout for years two, three, and four until we have receipt of the new methodology and recommendation. And again, I'd like to see a timeline on that again, the working group is formulated expeditiously, and we should certainly have a report back absolutely no later than the date by which the council could act on this, by April 2016.

>> At this time there's still more people to be heard. I haven't heard a second on that motion so I'm going to call on the following: Judge Buckley, Jim Fox, Judge Rubin.

>> I have a couple comments. I would strongly echo Judge Slough's comments. We have to get these courts that are at 300 to 500 caseloads to something more reasonable. It is scary. There's no other way to put it. I would echo that. To those people that came to speak to us, I understand why you would want a very careful look at the standards. And I would point out that April 2016 gives us ample time to analyze it and make the necessary changes if we believe some should be made before the next fiscal year. Judge Stout, I appreciate your motion. I can't agree that we delay on years two through four. One, I think it does not address what was raised in the proposed budget by the Governor as to a plan and a term I had. I'm tempted actually at some point to push for 20% in year one rather than 10%. I won't bore you with what happened at the advisory committee meeting, but I think to reach what we need to do for these children statewide, when we look at what our purpose is, is to look at what's the right thing for our state, for our courts, and for our children? I would urge everyone that we adopt the recommendation in its entirety including years two through four.

>> Jim Fox?

>> Initially, my position was we should just adopt for one year and then defer and see what reexamination of the workload model that would result in. Having heard Judge Earl's comments

about the uncertainty of budgeting, what the courts may need to do for the upcoming fiscal year, what I would suggest we consider is adopting the recommendations as made and calendaring in April, the report from the committee that is going to be reexamined if there are suggested changes to the workload model by next April. We can change prospectively, but we would have taken action to basically provide certainty for all of the courts. So I would make that as a motion, that we adopt a recommendation and that we come back in April of 2016, hopefully with a completed review of the workload model and any changes that would be recommended, we would implement.

>> My understanding is you're making a substitute motion?

>> There was no second to his first.

>> No second to Judge Stout?

>> So I think [Indiscernible -- low volume] from various corners that ...

>> Microphone.

>> I'm hearing from various corners we need to look more deeply at the data. I also agree with Judge Buckley's comments. This is a desperate situation and we need to get on this and we need to get adequate funding. It's not going to be the best funding because we not being funded adequately yet but the best funding we can to all counties. I would like to see this data tested because the premise of these motions, one through four, is the data is correct. Yet there is at least some suggestion we should try to reconcile, which we haven't done yet. I would like to roll out year one. And then if year one turns out the data is correct, two, three, and four are done. If not correct, then we're not committed to a course of action that will cause a real trouble for a lot of the children up and down the state. I'm going to second.

>> Let me be clear. Judge Stout has moved that we accept the recommendation. However we stay implementation of years two through four's rollout until the new methodology returns to this body in April 2016? You second that? I understood Judge Buckley or Jim Fox's motion to be move recommendations, have them in place, and continue to receive a report in April 2016 regarding the workload model. And consider whether at that point we change the rollout of years two through four? But at least we have action pending because as he indicated, by the panel, Judge Earl, courts need to plan years out. So I understand Judge Rubin to continue to second Judge Stout's motion?

>> Correct.

>> I don't know what the procedure is and what kind of ... I'd like to second Fox's motion.

>> [Indiscernible -- multiple speakers] If there is a second, then I would look at it as a substitute motion that has to ...

>> Is there a second at all to Jim Fox's motion?

>> Second.

>> So that's a substitute motion? I hear there might be a friendly amendment coming.

>> I'd like to have a compromise amendment.

>> Let's hear it.

>> Item number two? The friendly amendment to both would be we adopt item number two but insert the language unless revised in April of 2016 or sooner?

>> This is the plan unless revised? In April of 2016? What makes it slightly different than Fox's is that we come back and review. But we allow the revision to move forward with this plan unless they receive a revision.

>> You have to be the council?

>> That's what I'm saying. Unless revised.

>> I would accept that as a friendly amendment to my substitute motion.

>> Unless revised by Judicial Council upon receipt of the April report?

>> Correct. This is how we move unless revised in the 2016 budget by the Judicial Council. That's accepted?

>> That would be accepted.

>> Before council is the substitute motion which indicates accept all recommendations, one through seven. However, item two is modified to include that this rollout, A through D in these years, is accepted and considered unless revised by the Judicial Council upon receipt of the April report of the data and the methodology?

>> Can you do that last sentence again? I didn't quite catch it.

>> The amendment by Judge Anderson?

>> Just your last sentence. I didn't catch it. About ...

>> April 2016?

>> Definitely coming back on April 2016? There's definitely going to be a report?

>> Correct. Unless revised. That report in April 2016 causes us to change our decision? About years two, three, and four, we leave ourselves a safety valve. That's the motion as I understand it. I see heads nodding from the makers of that motion.

>> Clarification from the maker? There's no amendment. It's part of the motion.

>> And he accepted.

>> We've moved.

>> Thank you. So, clarification from somebody. I don't want to just have information. This is something we're actually going to see before us and discuss it again in this step again. Is that your understanding?

>> As I would understand it, any subsequent changes to the work model have to come back to the council. And so those would result in a modification of the funding formula if in fact that was required under modifications.

>> Back through Executive and Planning? And we'd make that decision consent or discussion.

>> The basics of that is, in the event things aren't ready at the April 2016 meeting and we can't move forward, do we still have a plan? However, the intent is April 2016 we get back here to see if B, C, and D should still move forward as is or should there be some different course of action?

>> Judge Stout?

>> [Indiscernible -- poor audio] importance -- by the council there's going to look at this as expeditiously as possible. I don't know if I can offer [Indiscernible -- poor audio] but I don't want to wait necessarily until April of 2016. I would ask that it be sooner. That's fine. I definitely want it back by then. That would be my preference, sooner the better.

>> Mr. Fox? On or before?

>> Absolutely.

>> I won't do it.

>> All in favor of the amendments to the substitute amendment that resulted in a motion that indicates that years two through four will come back before this body with a report for consideration at that time of the workload model and the data? And it will be a discussion by this council whether we move forward with years two through four as enumerated? It will be subject to a robust, I'm certain, discussion and that's when we will consider it? I hope and invite all those who gave public comment today to help us make that decision. All in favor of that motion, please say aye. Any opposed? Motion carried. Thank you to all of you who came here and gave us your time and your expert opinion on this issue. Thank you again to Judge Earl and Cherri Carter for your close look and hard decisions and good recommendations. Two things we are deferring from our agenda because of the time concerns: Items J and also I. That leaves us two action items.

>> Judge Rosenberg?

>> So the record is clear, the substitute motion passed and the original motion became moot.

>> Thank you. I appreciate that application on the record. We're going to stand in recess for about 30 minutes. At that time we will reconvene to take up the other two matters and I'd like to stress to all members, we want to stay within our timeframe of 2:00 to 2:10 because of airplane reservations. Thank you.

>> [Event is on break and will resume at approximately 1:45 Pacific.]

>> I promise you we will be swift. Next, we have Item L, court facilities. A request for approval, am I ahead of myself? I'm on K, Item K. Let me step back and find my sheet. Item K is court facilities, declaration of San Pedro Courthouse as surplus property. We have Marla Anderson, vice-chair of Facilities Policies Working Group, and Ms. Eunice Calvert-Banks, and Leslie Miessner from Real Estate & Facilities Management.

>> Good afternoon, Chief, chair, as well as council members. We do have two requests from the Facilities Policies Working Group. I'm assuming each person has read the material so we won't go through a lot of the materials. We do have the PowerPoint with the Chief's permission. What I'd like to do is go ahead and put together Items K and L and then take the questions at the end of the presentation of K and L if that's okay.

>> Very good idea.

>> At the beginning, the Facilities Policies Working Group was appointed to review facility matters and develop new policies. Pending the adoption of the new policies, the Facilities Policies Working Group also reviews facility-related requests such as the requests that we are presenting today and the two requests that we are presenting today are to declare that San Pedro Courthouse to be surplus property and authorize the sale as well as perspective lease of the Sierra Courthouse. I will turn it over to Judicial Council staff, Ms. Eunice Calvert-Banks, to move forward with the background.

>> For the San Pedro Courthouse item, the courthouse was transferred to the Judicial Council for the Trial Court Facilities Act of 2002 which we all commonly referred to as SB 3272 transfers back in December of 2009. San Pedro Courthouse is closed to the public by the Los Angeles Superior Court as of June 30, 2015, due to budget cuts along with a number of other facilities. The court had consolidated operations throughout the county and the caseload was transferred to other facilities. The Los Angeles Superior Court has advised us that they are willing to give up the facility on a permanent basis and concur with the recommendation of the Facilities Policies Working Group that declares the San Pedro Courthouse to be surplus property. There is an aerial view now of the San Pedro area. The San Pedro Courthouse is located in a commercial mixed-use neighborhood a few blocks from the harbor. You can see the water on the right side of this slide. Currently the city of San Pedro is engaging in revitalization efforts and promoting development in the area including waterfront development. LA County is supportive of these efforts and they would like to reacquire the courthouse property so that it may assist in the city's efforts. The local Los Angeles County supervisor has funds that may be used to acquire the courthouse. Staff is not clear on the restrictions as to the use of the funds. However, we have

been notified by the county that the supervisor's funds must be encumbered before the end of this fiscal year and spent before the supervisor terms out of office in November of 2016. This is a picture of the front view of the courthouse on 6-3. The courthouse is a two-story building, 30,000 square feet, with four courtrooms, judicial chambers, holding and administrative space. Here we have an aerial of the courthouse. The lot is 78,000 square feet or just under 1.8 acres in size. There are 62 secured parking spaces on the west or left side of the building, then 82 public spaces on the east side. Here we have a street view of directly across the street from the courthouse on the other side of Sixth. There are various small businesses, a shoe store, a pub, then further down the block, we have a tattoo parlor and the thrift shop. Okay? So for the legal authority, on March 20 the Facilities Policies Working Group reviewed the request to declare the courthouse to be surplus property. Since the court closure of the facility back on June 30, 2013, almost two years ago, the Judicial Council has continued to be responsible for the ongoing maintenance of the property and in fiscal year 2013–2014, spent approximately \$170,000 on maintenance, utilities, and payment of special assessment. The superior court recently notified staff that it had determined it was not going to reopen at this location and was supportive of the county's request to reacquire the property. For Government Code 70391, the Judicial Council has the authority to dispose of surplus property. Per 70391, C 1, a facility like the San Pedro Courthouse was previously a county responsibility; the council is to comply with Government Code 11011. Government Code 11011 lays out the process that the Department of General Services follows when disposing of executive branch property. If you carry that process forward to the judicial branch, the first step in disposing of the facility would be for the council to declare the property to be surplus followed by requesting legislative authorization to dispose of it by sale or other method. Further, under 11011, there's no specific statutory definition for surplus. To determine whether a property is surplus the working group reviews the three examples provided in 11011: land that is not utilized, land the state has not identified a future need for, and land not identified by the state agency within its master plans for facility development. By applying the description of what is surplus or excess, the San Pedro Courthouse property is not utilized. Neither the court nor the council has identified a future need for the facility. And the courthouse is not included in the council's five-year infrastructure plan. So based on the above, the council should declare the courthouse as surplus property and direct staff to report to the Legislature for the Legislature being authorized to dispose of it. Per Government Code 70391, C 2, because this is a transfer property, the council is required to consult with the county regarding the disposition of the facility. And when requested by the transferring county, a surplus facility is to be offered to the county at fair market value prior to being offered to another state or local agency. Here, Los Angeles County has requested that the council fell to the county the courthouse and has sent a letter, attachment B, to the report stating it will comply with its statutory obligations. It should be noted staff has received correspondence from the county stating that the county intends to negotiate the purchase price. And in 2013 the courthouse property was appraised at \$3.8 million and last month the county obtained an appraisal that came back at \$5.3 million. The standard definition of fair market value is the amount that a knowledgeable, willing, unpressured buyer will pay and what a knowledgeable seller will accept. Based on the correspondence, Judicial Council real estate staff expect to negotiate the sales price with the county as part of their regular staff duties. In order to obtain legislative authorization, there's generally three ways agencies would go about doing this. After declaring a facility to be surplus, the council must obtain the legislative authorization to sell, lease, or otherwise dispose of the facility. Generally, the deadline to introduce a new bill for consideration is at the end of February. And then the bill will make its

way through the Assembly and Senate and assuming everything goes well, signed by the Governor and become effective January 1 of the following year. Due to time constraints, the request to declare the courthouse surplus did not make the February deadline. However, each year a number of bills that have been introduced prior to the February deadline are repurposed by amending the original text. This process is referred to as gut and amend. So here, council or county staff would need to identify a bill that has already been introduced that could be gutted and amended to authorize the sale or otherwise dispose of the courthouse. If such a bill is successfully identified, the amended bill would have to pass both houses by September 11 and be signed by the Governor to have an effective date of January 1, 2016, in order to make the county deadline to close escrow on the sale of the courthouse prior to the supervisor leaving office in November 2016. Alternatively, another perspective way to get legislative authorization is to use a budget trailer bill. Each year a number of blank bills are introduced prior to the deadline with the understanding that they will be used for budget-related measures. Budget trailer bills are passed with the budget near the end of each fiscal year and go into effect as of July 1. The Department of Finance is in charge of those bills and in order to secure a budget trailer bill, either Los Angeles County or Judicial Council staff would need to obtain Department of Finance support and cooperation. If Department of Finance support is obtained, then a budget trailer bill will be with an effective date of July 1, 2015, could be obtained, and the county office November 2016 deadline met. Initial council staff did introduce this topic to the Policy Coordination and Liaison Committee on April 9, and advised the committee that the request to declare the San Pedro Courthouse surplus would be heard by the council on April 17. And so we do have the recommendations of the Facilities Policies Working Group: the recommendations of first to declare the San Pedro Courthouse to be surplus property and also direct staff to report to the Legislature that the court facility is a surplus court facility, and take all necessary action to obtain the legislative authorization to dispose of the facility in accordance with Government Code sections. And also number three, authorize the sale of the surplus facility to the County of Los Angeles and also number four, delegate to the Administrative Director the authority to sign a real property sales agreement, and also we added in that to make sure it's clear and all associated documents necessary to complete the sale, contingent on staff obtaining the Legislature's authorization for the sale as surplus property. And also Facilities Policies Working Group will continue to monitor facilities-related requests until formal policies are adopted. Then I will take your questions and comments at the end of the presentation.

>> Okay. So for the Plumas topic, today we are going to be here to consider a prospective lease of the courthouse to a third party. The Sierra courthouse was the first court facility constructed by the organization that was the Administrative Office of the Courts. In addition, the courthouse was the first multijurisdictional court facility in the state and was used by both the Superior Court of Plumas County and the Superior Court of Sierra County. The building was opened for court operations in December 2009 and then closed by both courts in November 2014. Unlike the Los Angeles request, both Plumas and Sierra superior courts do intend to resume court operations at this location as soon as their budget is approved. In the day-to-day course of judicial branch business, the real estate staff engage in leasing and licensing transactions. We receive notice of courthouse closures and after we receive the notice we contact the courts involved. In most cases, the affected courts do intend to reopen closed facilities as soon as the budget situation improves. In many instances, the court continues to have furniture and files in the closed facilities so they do not want facilities leased out to third parties. However, for today's

request, both Plumas and Sierra courts are willing to allow the facility to be leased out on a temporary basis. This is the first location where a 100% court exclusive judicial branch-owned facility would be leased. While Government Code section 70392 B gives the Judicial Council the authority to provide ongoing oversight, management operation, and maintenance of facilities used by the trial court, our Legal Services office determined that the council must approve this request because the courthouse is no longer used by the Plumas or Sierra courts. When staff first went to the working group to review the request, the working group asked what legal authority supported the council's ability to lease the facility per 70391. I'm sorry?

>> [Indiscernible -- low volume]

>> Okay. The council does have the responsibility, jurisdiction control, and authority as an owner does, including for this item. So when the Legislature used the phrase, as an owner would in 70391 to describe the council authority, it may use or dispose of its subject only to general laws and therefore we may go ahead and lease the courthouse. So the working group looked at a number of items including pros and cons. Let me skip ahead to that, and those are detailed on page six of the report. And the item in support of it was that lease revenue would offset statewide operations and maintenance expense. The ongoing occupancy would prevent blight. It helps keep the facility secured, deter vandalism, and shows the judicial branch is finding a solution for a financial problem. The cons include potential damage to the facility, attendance not being able to meet financial obligations, and public perception issue. Okay? Because both of the courts would like to get back into the building within the next three to five years, we had discussed entering into a five-year lease subject to early termination after three years. It would be as if on a triple net basis which means that the occupant is completely responsible for all costs of the facility including maintenance of all of the systems, landscaping, et cetera. And in the lease itself, there would be a number of terms as detailed in the report to protect the judicial branch assets.

>> Then we'll go to the recommendations. Just, thanks for the enormous amount of work that went into this. Because of time constraints we have to move through it but I want to say thank you very much for all the energy and effort you put into it. If there's any questions, we can answer them. The recommendations from the facility working group is to authorize staff to negotiate with third parties to lease the Plumas-Sierra courthouse and delegate to the Administrative Director the authority to sign a lease and any documents, and the Facilities Policies Working Group will continue to monitor facilities-related requests until formal policies are adopted. We will take any motions and questions.

>> Judge McCabe, Justice Hull, Judge Rosenberg.

>> Thank you, Chief. Regarding Los Angeles properties and the San Pedro Courthouse, in addition to a letter from the County of Los Angeles chief executive officer indicating their intent to purchase the property, there's also a letter from Los Angeles Superior Court CEO Sherri Carter in support of the council's decision for the courthouse to be surplus property. Consequently I move to adopt the recommendations first for the LA court [Indiscernible -- poor audio] on page one of that memorandum. It seems to be reasonable and I think, given this doesn't appear to be controversial, that it has support in addition to two e-mails from the Plumas folks on this property [Indiscernible]

>> I just need to add something to the second as well as just on your documents you don't have the words in associated documents necessary to complete the sale. So, adding that in there as well.

>> We'll do that.

>> Who is the second?

>> Judge Stout.

>> Justice Hull?

>> Just two quick questions going through the materials. We're obligated to offer the property, San Pedro property, to the county at fair market value. If there's a difference of opinion as to fair market value, how is that resolved?

>> Generally, that's an item that is negotiated by staff. We look at the appraisal as I want to say, a ballpark market value and then would negotiate from there.

>> I see.

>> The Facilities Policies Working Group that will be interjecting themselves in the process when necessary. It's up to the administrative director and his staff to do their job but the policy workgroup is just the oversight to make sure that there is constancy.

>> I'm sorry. In the event that the county changes its mind and we're able to offer to third parties, are we still restricted to fair market value or is that an open negotiation at that point?

>> We have not done this before but I would think it would be open for negotiation. The appraisal is the starting number.

>> Thank you. Lastly, once we obtain the funds from the sale of the facility, where do the funds go? What pocket?

>> The official fund, some folks refer to it as the rainy day fund. To the state. Where's that? The deficit recovery bond retirement sinking fund?

>> That's not a Judicial Council fund? That's a state fund? So basically what we're doing, I agree but what we're doing is we're not gaining revenue. We're cutting our expenses by undergoing this particular transaction?

>> Yes.

>> Okay. Thank you.

>> Judge Rosenberg?

>> I certainly support the motion, but my only question is, I can't get my head around who would lease that Plumas-Sierra facility. Since it's configured to be a courthouse and a courtroom, what kind of tenant could they possibly hope to obtain?

>> I understand there's a charter school.

>> There's two folks that are interested, the city and the charter school and even though it's a charter school, they are not interested in revising the building or doing any remodeling—as is.

>> So they could for example use the courtroom as a classroom?

>> As is.

>> With the understanding that it's a short lease and that the court intends to reoccupy.

>> There you go.

>> I had a similar question. I saw in the materials that the tenant would be responsible for restoring the property to its release condition. My question was, whether or not there would be any tenant improvements. And if there were, would that be included under that clause, restoring release conditions?

>> In discussions with the city and charter school, neither one of them have notified us they had intention of changing the facility. But if there were, we would of course require restoration.

>> Okay. Thanks.

>> Judge McCabe has moved the recommendations for both agenda items. Did I hear a second?

>> Judge Stout.

>> Any further discussion? I don't see any hands raised. All in favor of these recommendations, please say aye. Motion carries. Thank you. We are in uncharted territory. We look forward to hearing the results. Thank you. We conclude today's meeting, I'm sorry. Thank you. We have enough for a courtroom. We made sure of that when we took the vote. Are there any opposed? Motion carried unanimously. As we always do, we conclude our meeting with a remembrance of judicial officers recently deceased. They are: Judge William E. Burby, Jr., Superior Court of Los Angeles County; Judge David W. Calfee, Contra Costa County Municipal Court; Judge Edward L. Davenport, Los Angeles Municipal Court; Judge James Di Giuseppe, Los Angeles Municipal Court; Judge John D. Jelletich, Superior Court of Kern County; Judge Thomas Jenkins, Superior Court of San Mateo County; Judge David V. Kenyon, Superior Court of Los Angeles County; Judge Peter E. Riddle, Superior Court of San Diego County; and Judge Harold J. Sinclair, Los Angeles Municipal Court. All retired from the bench and we honor them for their service to the court and community and the cause of Justice. That concludes our April business meeting. Our next regularly scheduled Judicial Council meeting is June 25 and 26. Thank you. Safe travels.

>> [Event concluded]