
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 a formatted and unedited transcript of the **business meeting of July 28, 2015**. 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.

>> Despite all the things that you are hearing, the meeting is now in session. Out of respect for Judicial Council members' time and always conscious of cost and the most efficient way to manage the main agenda items on our discussion agenda today, the Executive and Planning Committee decided to have our July meeting as a telephone meeting. Thank you to Justice Miller, committee members, and staff for facilitating the meeting for us. As an entity with a large volunteer membership, we continue to evolve our processes and procedures to be more efficient and effective policy development for the state what administration of justice. And all is an effort to provide equal access [Indiscernible] California. In a moment, I will ask our Administrative Director and secretary of the Judicial Council, Martin Hoshino, to conduct a roll call of members attending by phone so we can establish a quorum and identify members attending. Before we conduct the roll call, I want to advise you all that I will call upon each of our agenda item presenters by name and indicated action items, and if a Judicial Council member has a question or comment, please state your name and I will call on you in order to speak. Also, please member to mute your phones so we can enable everyone to hear, follow our discussions and actions more closely. I also realize we have our newly appointed council members joining us by phone. I welcome all of them. And we will acknowledge them were appropriate and in person at our next meeting in August. So, Martin, if you are ready, I ask you to please call the role.

>> Good morning, members. Justice Cantil-Sakauye?

>> Present.

>> [Indiscernible]

>> I'm here.

>> Justice Chin?

>> Here.

>> Justice Hull?

>> I'm here.

>> Miller?

>> Here.

>> Justice Miller?

>> Present.

>> Judge Back?

>> Here.

>> Judge Brandlin?

>> Here.

>> Judge De Alba?

>> Here.

>> Judge Elias?

>> Here.

>> Judge Rosenberg?

>> Here.

>> Judge Rubin?

>> [Pause]

>> Judge Stout?

>> Here.

>> Judge Tangeman?

>> I'm here.

>> Judge Jackson? Assemblyman Richard Bloom? Mr. Bonino?

>> Here.

>> Mr. Fox?

>> Here.

>> Ms. Melby?

>> Here.

>> Ms. [Indiscernible]?

>> Nonvoting members? Judge Hermon?

>> Here.

>> Judge Jacobson?

>> Here.

>> Judge McCabe?

>> Here.

>> Judge Slough?

>> Present.

>> Judge So?

>> Here.

>> Judge Wachob?

>> Here.

>> Commissioner Gunn?

>> [Pause]

>> Mr. Feldstein?

>> Here.

>> Mr. McGuire?

>> Here.

>> Ms. Todd?

>> Here.

>> Chief, you have a quorum.

>> Thank you, Martin. First order on our agenda is the approval of the minutes. I'm hoping everyone has had the opportunity to read those, review them, and once you have had the opportunity, I'd entertain a motion to adopt.

>> Move.

>> Rosenberg moves or seconds.

>> Thank you. I think Justice Chin, move, Rosenberg second, correct?

>> Yes.

>> Thank you.

>> All in favor to move the minutes, please say "aye".

>> [Overlapping speakers]

>> Aye.

>> Any opposed? The minutes are moved and adopted.

>> [Overlapping speakers]

>> May I interrupt? I believe that two members may have joined the call and I want the record to reflect who they were.

>> Richard Bloom.

>> I'm sorry.

>> Thank you, Assemblyman.

>> And this is Pat Kelly.

>> Thank you. Good morning, and thank you. We have just approved the minutes of our June 25 and June 26 meeting. Martin, I think we heard another addition to the call.

>> Good morning, I apologize for the delay. Sen. Hannah-Beth Jackson on the call.

>> Good morning, Senator.

>> Good morning.

>> After the approval of the minutes, the next item on the agenda is my regular report to the council, summarizing engagements and ongoing outreach activities since June 26. Even during this short time frame, I have tried to reach out with budget advocacy and meetings with

legislators and justices and partners. As you all know, we have already begun the preliminary planning discussion. That information exchange is around next fiscal year's budget. All Judicial Council members, I also have my advisory committee responsibility, and I attended our regular [Indiscernible] advisory committee meeting. Needless to say, it's a critical issue for the Supreme Court and Court of Appeal leadership. I was honored to be one of four recipients of the Outstanding Citizen Achievement Award at the OCA Asian Pacific American Advocates national convention in San Francisco. Nearly 1,000 delegates shared their support for issues that we are concerned with, ranging from social justice, voting rights, and also encouraging the next generation of community, state, and national leaders in civic. This was also the scene at the Junior State of America Institute on California Leadership and Politics held in Sacramento. Thirty-six high school students selected from throughout the state attended the Institute. I understand they passed a budget—and several initiatives. And they discussed redistricting and money and politics and environmental stewardship. This was held in the Capitol, as I said, and to have the opportunity to address them in the Governor's office. The goal of the institute is to encourage youth civic engagement and inspire our future local and state leaders. I was quizzed about my role as Chief Justice, our role in state government, and our partnership with our sister branches. To continue our branch's efforts in civic learning and engagement, and in keeping with my role as convener, I attended a meeting of the Executives of California Lawyers' Association. Those are the executive directors of the bar associations that are here in California. And I did so with the Foundation for Democracy and Justice, a nonprofit that provides civic engagement to adults. Additionally, I also attended a joint meeting of the civic learning partnership and the Power of Democracy steering committee. This is headed by Justice McConnell, and her leadership continues to evolve programs that can be supported by local bar associations and communities, which were joined in that meeting by leaders in civic pilot projects from San Diego, Butte, Sacramento, and Los Angeles, providing judges and justices are involved in partnering with local school districts. I was also [Indiscernible] during a roundtable at the California District Attorneys Association summer conference in Napa. I sat around a table with about 58 DAs in the counties and answered questions about the judicial branch, our initiatives, and certain bills. Also during July, Governor Brown made a number of welcome appointments to the Superior Court of California, and I recently chaired four hearings of the Commission on Judicial Appointments in Los Angeles, along with Attorney General Harris and Senior Presiding Justice Paul Turner. Together, we confirmed four appointments to the Court of Appeals, Second Appellate District and we welcome back Justice Louis, and welcome to the Court of Appeals Justices Go, Lavin, and Baker. That concludes my report to the council. Next we will hear from Martin Hoshino on the Administrator Director's report.

>> Thank you Chief members. Given the general budget focus for this meeting and the short intervals since the council met at last June 26, I do not have a written report for today's meeting, but I do have an oral report, which will be brief and will contain a brief program update related to traffic matters, and then an item, or a couple of items, of which to make the members of the council aware. The first one related to traffic is the work that is going on related to traffic cases, and some of the activities that have gone on over the last couple of months. The first is with respect to Rules of Court. Our staff is continuing to provide ongoing assistance for the courts as

they work to implement the requirements associated with the new rule of court approved by this body June 8, which allows for an appearance without deposit of bail in traffic infraction cases. It includes ensuring court complaint on forms and written instructions as well as making available a simple website to ensure court users have online access to appropriate information on related court processes. At the June meeting, the Chief indicated that more work with my head on this issue, and consistent with council direction, the Traffic and [Indiscernible] Advisory Committees, which are chaired by Judge Mark Borrell, and [Indiscernible], respectively, implement a new worlds to traffic infraction cases. It is anticipated that the council may receive the recommendations in October. Related to that is the amnesty program and changes associated with the current budget act and with respect to the traffic amnesty program, which, as a reminder, begins October 1. The staff are working on supporting the courts, as well as coordinating with the California State Association of Counties, the California Revenue Officers Association, and California Victim Compensation Program to draft implementation guidelines for the program. Those guidelines are expected to be available and considered by the council at the August meeting. We are also working as quickly as we can to identify and make available support resources to assist courts with case management system reprogramming activities related to the amnesty program. A new public webpage has been posted with some basic Q&A and FAQ type information for potential participants in the program. And, the course and counties are all encouraged to link their respective websites to this page. The council staff has produced some information available, informational videos, which are also on the sites, with some closed captioning options in over 50 different languages. And we are also working closely with the DMV on the vehicle registration insert, which will describe the program and which is been translated into nine different languages. And now, couple of items, in terms of awareness for the council members. Court ordered debt is another area that really treads with the traffic reform initiative. And it gets into the broader issues of fines, fees, and penalties. I want the council members to be aware that legislative interests continue in both the Senate and Assembly in this area of fine and fee revenues. In fact, the president pro tem of the Senate has asked both the Judicial Council and Legislative Analyst's Office to review revenue streams and the rationale for penalty assessments and provide recommendations for a more rational structure that takes into account this nexus as well as the issue of affordability. Recommendations are also expected to be made on improving the court ordered debt collection process. To date, we have had a number of productive meetings with various stakeholders and the courts and have initiated data collection efforts and expect for the discussions to begin to address what we all know is an incredibly complex issue for the entire state, not just the judicial branch. Connecting with this, the Futures Commission, as the council considers its present allocations for the branch for this fiscal year and addressing budget change proposals for the fiscal year 2016–2017, during this meeting today, there continues to be a recognition of a need to address long-term fiscal sensibility and sustainability for the branch. In fact, I spent the weekend in Omaha, Nebraska, at the Conference of Chief Justices and the conference of the State Court Administrators. And, this was a subject, though not officially on the agenda, but at various roundtables that I was participating in that came up over and over again. The notion of stability, sustainability, as it connects with all courts across the country has different funding and revenue streams and formulas are now being re-examined and, in this respect, California is no different. And so, consistent with the national

focus, the Commission on the Future of California's Court System are approved by the Chief Justice has taken a long hard look at the reform opportunities, really across the board, in all areas of judicial administration, which includes budget funding, budget structure efficiencies, and formulas. The commission is casting its net wide in terms of information it's now seeking, and the work being considered and undertaken is essential to bring new ideas forward, which will inform the strategic path the branch will need to follow to secure needed resources of a fully functioning judicial system. Tarmac for your attention, members, and that concludes my report.

>> Thank you, Martin. We look forward to August and some of the issues you described and challenges of the Futures Commission and discussions we will have. Next on our agenda is consent items, but before we get there, I would like to let council know, as you are aware that because this is a phone conference, it is open to the public; however, the public comment is very difficult if not impossible to adequately facilitate. Nonetheless, the public has been invited to submit their written comments to us, viewable by all of us on the Moodle site, in lieu of being present to publicly comment. So make sure you keep an eye out on the site for written comments that we may receive.

>> Next, we have our consent agenda items A1, A2 through F. These, as you know, include updates and revisions to rules and forms to small claims and probate mental health. Also included are funding allocations to the Family Law Facilitator Program and a funding transferred to throw reentry court programs from the California Department of Corrections and Rehabilitation. There are also three reports, final reports, to council, on Judicial Council directive number 125, relating to emergency response and security functions, a report to the Legislature on findings from the California Community Corrections Performance Incentives Act of 2009, and a report on recommendations from the Council's Advisory Committee on Providing Access and Fairness relating to the promotion of judicial diversity. All of these items, these consent items, are the product, as you know, of many, many, many months of work and the contributions and volunteerism with many individuals. As I said before, being on the consent agenda does not reflect in any way the importance of the issue or work. And we do greatly appreciate the efforts of all of those involved to bring these issues and actions before council. So when you are ready, I will entertain a motion to move the consent agenda.

>> Fox moves.

>> [Indiscernible], second.

>> Justice Fox moves, Judge [Indiscernible] second. Any discussion? All in favor, please say "aye."

>> Aye.

>> Any opposed? Hearing none, all consent agenda items are removed for adoption. Now we begin our action items. We begin with item G. It is regarding our budget and fiscal year 2016–2017. These are budget requests for the trial courts, and presenting is our Ms. Mary Beth Todd,

member of the Trial Court Budget Advisory Committee and chair of the Executive Committee and as you know, member of the Judicial Council, as well as Mr. Zlatko Theodorovic, Judicial Council finance. You may proceed. Thank you.

>> Thank you, Chief, and members of the Judicial Council. This is Mary Beth Todd. I think I'm going to take the lead on this item. I'm here on behalf of Judge Earl, who cannot be with us today due to a preplanned vacation. Item G includes a recommendation from the Trial Court Budget Advisory Committee to approve the operation and submission of the fiscal year 2016–2017 budget change proposal to the state Department of Finance for trial court–provided security and to approve a process by which courts with court-provided security, since fiscal year 2010–2011, will be provided growth funding, based on the same growth funding percentage that county sheriff's received. As you may recall under criminal realignment in 2011, funding for sheriff-provided security in the amount of over \$484 million was removed from the base budgets of the trial courts and transferred to the counties for payment of sheriff-provided security services. Realignment further provided for the counties to receive an annual growth factor to be applied to that funding going forward. However, at the time of realignment, \$41 million in security costs still remained in the base budgets for 39 trial courts that had some or all of their security provided by the court itself through private security contracts, court attendance, marshals, or other means. No provision was made for growth funding for court-provided security, and with the exception of some funding for benefit adjustments for marshal and court security staff to the benefit funding process, no further growth funding has been added to the basic security budgets for these 39 trial courts. To address this issue, a working group of the Trial Court Budget Advisory Committee was charged to determine (a) whether the affected courts should receive growth funding and at what rate, and (b) what the sources for any such funding would be. At few recall last year that the budget committee, as a result of the recommendations of the working group, recommended this omission of a budget change proposal for general augmentation of \$3.7 million to address increase costs to maintain court-provided security at the fiscal year 2010–2011 level. This budget change proposal was not approved. The Department of Finance reasoning was that the trial courts should prioritize security expenses against other costs and utilize their general fund augmentation for these purposes. The Budget Advisory Committee is now recommending again for your consideration the submission of another budget change proposal for fiscal year 2016–2017 to address increased costs for court-provided security for the maintenance of funding at the fiscal year 2010–2011 security levels. The recommendation contains a second [Indiscernible] commencing fiscal year 2016–2017 and going forward, that trial courts with court-provided security since 2010–2011 would be allocated from any new general augmentation to the trial courts, the same percentage that the county sheriff receives. And then in item 3, we kept the percentage up to but not to exceed the percentage increase to trial courts that the general funding augmentation represents. So if, for example, we received 2 percent General Fund augmentation, but the sheriffs were receiving a 2.5 percent growth factor, we would cap what is provided to the trial courts to the two percent that the General Fund augmentation represents. Further, growth funding would cease if any court discontinues its court-provided security services. We did consider a third option, which was to provide the full growth funding, equal to the general fund augmentation percentage

increase. It was determined not to recommend that the court-provided security funding receive that full percentage increase, because the working group did not feel the [Indiscernible] should be getting any more than what the sheriffs are getting and in recognition of the fact that any allocation from the general fund augmentation to courts with court-provided security results in a reduced allocation to courts without court-provided security, so we wanted to take a relatively conservative approach to that. I think Zlatko Theodorovic and Patrick Ballard are also on the call, and I would ask, if they have anything to add, to go ahead and speak at this time.

>> No, Mary Beth. I think you did a great job. This is Zlatko Theodorovic. You did a great job going through the items and I'd like to open it up for questions from council members.

>> Any questions?

>> I'd like to remind council when you ask a question, please state your name so that people can follow the discussion before you ask the question. I know that the materials for items G are laid out rather comprehensively in our binder, as well as the fact that this is a prior BCP that has been approved and we're all aware of the court-provided security issue. We addressed it when criminal realignment was before us. I will leave the line open for further discussion or observations. And hearing none, then the court will move and second and that does not foreclose further discussion.

>> This is Justice Miller. I will move to approve item G.

>> Rosenberg will second.

>> Thank you. I have Justice Miller moving to approve item G in its entirety. Justice Rosenberg seconding. Any further discussion, observations, or remarks regarding this motion before I call for the vote?

>> [Pause]

>> Hearing none, all in favor, please say "aye."

>> Aye.

>> Any opposed? Any abstentions? The motion passes in its entirety, we adopt item G. Thank you, Mary Beth. Thank you, Zlatko.

>> You're welcome.

>> Next is item H, action items. These are trial court allocations, funding for general court operation, and specific cost in fiscal year 2015–2016, and we welcome the presenters, Presiding Judge Marsha Slough, member of the Trial Court Budget Advisory Committee, chair of the Trial Court Judges Advisory Committee and member of the council. Also, we welcome Mr. David Yamasaki, and again, Mr. Zlatko Theodorovic, Judicial Council Finance. Thank you.

>> Good morning, Chief, Mr. Hoshino, council members. I, too, am standing in for Judge Earl this morning, who is not available today. As you all know, the Judicial Council has a statutory authority to allocate funding appropriated in the annual budget act from the Trial Court Trust Fund. The Trial Court Budget Advisory Committee has provided recommendations for allocation from the trust fund for general trial court operations and certain specific trial court costs. The Budget Advisory Committee took action at this meeting of July 6 of this year, setting forth nine separate recommendations that we bring to you today for action. Nearly all of the recommendations that we will present today were approved unanimously, with the exception of one, which is recommendation number 8. It did pass on a 20–6 vote. Four of the recommendations reflect allocations of new funding, which has been provided in the 2015 budget act, and those are our recommendations 2, 3, 7, and 9. A majority of the recommendations are what I will call, basically, pro forma. They reflect allocations calculated according to Judicial Council–approved methodologies or prior-approved allocations. Again, for scorekeeping purposes, those are recommendations 1, 3, 4, 6, 7, and 8. Again, those are actions which are fairly, again, what I called pro forma. So, with that, what I guess I would ask Chief is, I had anticipated ongoing through allocations 1 through 7 myself, Mr. Yamasaki will present allocations 8 through 9. Would you like a vote after each individual recommendation? Or would you prefer one vote for all nine?

>> Thank you, my review of this is that these are not, in other words, dependent on each other. So, I would prefer, frankly, to take 1 through 7, have that discussion in its entirety, and any amendments made or suggestions or options we will take up a time. But, keeping on the level of activity and concern, try to handle these in two motions. 1 through 7, and then 8 and 9.

>> Thank you very much, Chief. What I will do is I will go through -- [Captioner has lost audio - please stand by]

>> The following at home. This is starting at page 3 of item H, in the materials, it has been provided. So, as it relates to recommendation 1, in compliance with the Government Code, Trial Court Budget Advisory Committee asks that this body approve the 2015–2016 beginning base allocations for court operations of \$1.683 billion, which carries forward the ending of the 2014 2015 Trial Court Trust Fund base allocation and adds the general fund benefits base allocation and adjustments to annualized partial year allocations made in 2014 2015. The documents specifically, as they relate to and support this recommendation, are found in attachment E, and A of the materials. So, as it relates to the first recommendation, again, the first base allocation, any technical questions or comments regarding this recommendation? Hearing none, I will move to our second recommendation. At its June 26, 2015, Judicial Council meeting, the council approved the recommendation by the Trial Court Budget Advisory Committee for the allocation of \$13.4 million included in that 2015 Budget Act for trial courts, as we made progress toward compliance with the Public Employees’ Pension and Reform Act, PEPRALAW. The Governor’s proposed budget, as it relates to these new benefits funding, included \$42.7 million. However, it was reduced to 38.8, because the employee and retiree health premiums and/or the employer’s share amount came in lower than that estimated by the court. So, the total amount in

this recommendation, again, is -- or I should say, the total amount in the Governor's budget was 38.8. As stated, many of the courts made significant progress as it relates to coming into compliance with the PEPRA requirements, and others are continuing to work with their employees as well. So at this stage, the Budget Advisory Committee, asks and recommends that you allocate each court share of the 24.4 million for 2014–2015 noninterpreter benefit employer caused changes from the Trial Court Trust Fund, the remaining 1.2 million provided in the 2014–2015 court interpreter benefit cost changes in the Budget Act of 2015, with added as a separate line item, within the 45-45 Trial Court Trust Fund program. I know it's kind of a complex, convoluted issue. But if anyone has any specific questions regarding this recommendation, please ask. And, Zlatko or anyone, if any further clarification is needed, please feel free to speak up as well.

>> Of course, Judge Slough. You're doing a fine job so far. We will let you know if you need help.

>> You will kick me under the proverbial table across the telephone line?

>> Indeed.

>> All right. Not hearing any questions or comments regarding recommendation 2, we will go to recommendation number 3, which is the 2015–2016 WAFM allocation adjustment, which was set forth on page 5 of the materials in item H. As you all are well aware, in April 2013, the council adopted a policy to save in the use of a workload allocation funding methodology for reallocating courts' historic WAFM -based funding. The court has over the past couple of years adopted numerous revisions to WAFM. At this time, the Budget Advisory Committee recommends that this body allocate each court's share of the net application increase in the Governor's budget of 67.9 million from the Trial Court Trust Fund, using the 2015–2016 Workload-Based Allocation Funding Methodology, which consists of a reallocation of \$432.1 million. That is WAFM at 30 percent, and an additional 214.2 million of the court's historical WAFM-related base allocation of 1.44 billion, reallocation of 146.3 million in new funding provided in the 2013–2014 and 2014–2015 for general court operations, and allocation of 67.9 million in new funding provided in this most recent budget for 2015–2016. Any questions regarding this third recommendation regarding the WAFM allocation adjustments?

>> [Pause]

>> Not hearing any, I will move to the fourth recommendation. This is found on page 6 of the materials under item I. In this recommendation, the Budget Advisory Committee is addressing the issue of the 2015–2016 funding for allocation adjustment. At its February 20, 2014, meeting—we were allocating [?]-based funding for court operations—this council voted for an absolute funding for of \$750,000 in fiscal year 2015–2016, and then a graduated funding for, based on a court's WAFM funding needs. This recommendation, we ask that this body allocate each court's share of the 2015–2016 WAFM methodology funding for allocation adjustments, which includes funding for allocations for eight courts, which totaled \$560,269, and a

corresponding funding for reduction for the remaining courts totaling that same amount, resulting in a net zero total allocation. Any questions or comments, concerns, regarding recommendation number 4? Not hearing any, I will move to recommendation number 5. This is found on page 7 of the materials. This is an allocation as it relates to, or a recommendation, as it relates to the allocation of the court's contribution to the 2 percent reserve. In previous Council action on July 27, 2012, July 25, 2013, and in July 2014, the council approved a pro rata allocation of a longtime family for funding. Based on the Budget Act of 2015, the 2 percent reserve amount is \$37,675,580, which reflects 2 percent of the 2015–2016 Trial Court Trust Fund 45-10 program. The Trial Court Budget Advisory Committee recommends that this body allocate each court's one-time contribution for the statutorily required 2 percent reserve in the Trial Court Trust Fund, which is 37.7 million for this fiscal year, calculated using the method utilized from 2012–2013 through fiscal 2014–2015. The documents supporting this recommendation are found in Attachment A, specifically within column 5. Any questions, comments, concerns, regarding recommendation 5? Not hearing any, I will move to a recommendation number 6, which relates to the 1 percent fund balance capital. At its July 29, 2014, business meeting, the Judicial Council, to assist the council in coming into compliance with the Government Code as it relates to the 1 percent cap, determined that each year, the courts would be required to submit a 1 percent computation form with preliminary year-end information by July 15. The information provided by the court would be used by this council to make the preliminary allocation of reductions as required by the Government Code. Each year, the courts are required to submit a 1 percent computation form with final year-end information by October 15. Before February, the Judicial Council chief financial officer will report to the council the information provided by the court for the final allocation reduction, if any is required. Without foundation, the Trial Court Budget Advisory Committee recommends as follows. We ask that you approve a preliminary one-time allocation reduction of \$122,393 to three courts that are projecting the portion of their 2014–2015 ending fund balance that is subject to the 1 percent fund balance cap, and exceeds by that amount, the \$122,393. So, we would ask for a reduction in that amount. Any questions, comments, or concerns, regarding recommendation 6?

>> [Pause]

>> We got a little bit of updated information from some trial courts. This is Zlatko. Thank you, Martin. The new number is 392,881. This was for nine courts. This was an update that was not in the materials. Again, these are preliminary, and know that those are being updated as this report is being developed. So the revised number is 392 881 49 court to have an amount above their 1 percent cap.

>> Thank you for that correction, Zlatko. You had informed me of that and I neglected to note it. Thank you for that. Any questions with that update? Not hearing any, I go to recommendation number 7, which relates to the allocation for court-appointed dependency counsel costs. As you know, this body, at its April 17, 2015, meeting, approved several recommendations from the Trial Court Budget Advisory Committee the direct the allocation of court-appointed counsel funding to the court. Of the Council approved what I will kind of describe as similar to a WAFM

phased-in approach, as follows, in fiscal 2015–2016, the courts receive 10 percent based on the new formula, 90 percent based on the historical base, the next year, 2016–2017, 40 percent on the workload-based funding, 60 percent on the [Indiscernible], 2017–2018, and then 2018, 2019, 100 percent. At this time, the Budget Advisory Committee recommends that you approve a one-time allocation of \$11 million, which is new funding from the Trial Court Trust Fund, for reimbursement of court-appointed dependency counsel costs, based on the Judicial Council–approved methodology as follows. First, 10.9 million to the trial courts, with the ratio of 2015–2016–based funding to their workload-based funding need; second, set aside a reserve of \$100,000 to reimburse the trial courts for unexpected and significant court-appointed dependency counsel costs, based on an application in the reimbursement process, which will be approved at a future council hearing, before April 2016. The documents in support of this recommendation are found in Attachment A, specifically column 7 of the materials, and this item is located on pages 8 and 9 of the materials you have before you. Any questions or comments regarding recommendation number 7? Not hearing any at this time, Chief, I turn it over to you for a vote on items 1 through 7.

>> Thank you, Judge Slough, and thank you, Zlatko. I also want to give a special thank you to Judicial Council staff for the preparation of the materials. I especially appreciate Judge Slough, your recap of prior to Judicial Council actions that is set up and provided history and background, that put these recommendations in front of us. It is very helpful for us, for me, at least, to be able to know the dates and years that we made some of these fairly significant changes to the Judicial Council budget, and also to trial court funding, which makes and tees up all of these issues for us. I thank you for that and I believe that that has hoped to reduce any further questions about some of the background. Not necessarily the actions taken by the Budget Advisory Committee. But, certainly, I appreciate that the Trial Court Budget Advisory Committee, I think, even before we opened the public meeting at the Judicial Council, conducted many of these, and a lot of us in many other interested parties, to listen in and become part of the conversation, where the 15 presiding judges in the 15 court executive officers come to these recommendations, and I would entertain any motion for approval of recommendations 1 through 7 including A and B at this time.

>> I will make that motion. Thank you. I heard another voice, please go ahead.

>> I will second.

>> Thank you, go ahead, Judge Rosenberg.

>> So, Judge Slough, or Zlatko, or anyone else, I believe that you stated that the vote at the Budget Advisory Committee was unanimous. What was not in [Indiscernible]?

>> Judge Rosenberg, this is Judge Slough. It was recommendation 8 that was not in this vote. Judge Yamasaki will be addressing recommendation number 8, so I will ask him to brief you and others on that question.

>> We can wait until we get there, that will be fine.

>> Chief, Dave De Alba. Can I ask a question, please?

>> Of course.

>> Dave De Alba. Chief, I don't know whether I did or did not hear whether we had public comment on any of these action items. And you know, I appreciate your comments of openness and transparency that the Trial Court Budget Advisory Committee has historically embarked on, and I certainly complement Judge Slough for her open presentation this morning. And as you said, the materials that are before us are very useful in incorporating the historical bases and recap of highlights of how our budget got to where it is today, and, the attachments are very, very detailed, as to every court allocation, starting from their base to the WAFM to dependency counsel, whatever it be, it is all before us and on the website and has been published, duly published, as it is required to be for this public meeting. So, I find it interesting, if it is true, that we have no public comment, which suggests to me no controversy. So, I want to compliment the staff and Judge Slough for her presentation. Thank you, Chief.

>> Thank you, Judge De Alba. There is a motion on the floor brought by Justice Hull. Second by Justice Rosenberg as previously described. Not hearing any further comments, although certainly open to it, at this time, all in favor of recommendations 1 through 7, including A and B of 7, please say "aye."

>> Aye.

>> Any opposed? Any abstentions? Those items are adopted. Thank you, Judge Slough, and thank you, also, Zlatko. Next, we'll hear from David Yamasaki on the remaining items, 8 and 9—9, A through C.

>> Thank you, members of the council, Mr. Hoshino. Let me first start by providing a warning. Unfortunately, my office is next to the firehouse in San Jose, and to save your eardrums, I will put your phone on mute if the fire trucks go out on call. Okay? So, my presentation is being made on behalf of the Trial Court Budget Advisory Committee, and Judge Tom Morris, Judge of the Superior Court for the County of Orange, with whom I cochair the Criminal Justice Realignment Subcommittee. This subcommittee was established a few years ago with the enactment of the Criminal Justice Realignment Act, and it has continued to review and recommend to the Budget Advisory Committee as new related activities have arisen, the passage of Proposition 47 being one of those new activities. I will be speaking to two items, number 8 and number 9, contained within item H of your materials; and beginning on pages 3 through 4, the higher-level description of the recommendations of the Trial Court Budget Advisory Committee; and, in greater detail, as provided on pages 9 through 13. I will take up number 8 at this time. This year's Budget Act has earmarked \$9.2 million to support the work of the trial courts dealing with additional workload resulting from the criminal justice realignment. Historically, the allocation followed a biannual allocation based upon workload experience

throughout the year. The recommendation of the Budget Advisory Committee is to allocate the entire amount of the \$9.2 million, based upon the workload data that has been provided to the Judicial Council, Criminal Justice Services office. And, as I had indicated, the previous action of the Budget Advisory Committee as recommended to the Judicial Council was to divide the \$9.2 million into two amounts: 4.6 of it would be provided at the start of the fiscal year, and the remaining 4.6 would then be distributed based on new data that is received, so as to ensure that the allocations are based on the most current information. You will recall with realignment, many of the courts were experiencing fluctuations throughout the year. And, the reason for the dual distribution process was to accommodate any courts that sustained any, you know, peaks later on, and the recommendation of the Budget Advisory Committee was to allocate the entire amount at the beginning of this fiscal year, and part of the discussions centered on getting courts the opportunity to better budget throughout the year, rather than trying to extend those resources for the second half with all of the other challenges that the courts are having. The sentence was to distribute the money at the outset, and that particular item as was expressed earlier was not a vote that was unanimous. And, I can shed a little bit of light on that, if folks are interested.

>> I would be interested. This is Senator Jackson. I would be interested, because given all of the controversy that this Proposition 47 has created with respect to additional work on the courts and so forth, I'm hoping that there is going to be some very specific accountabilities here, so that each court will identify whether or not they are seeing an increase in caseload, a decrease, and just so that we can determine how effective Proposition 47 is in meeting the expectations of the public. And I think the court maintaining good data is going to be critical to that because, is there some way this is all going to be kind of hooking together?

>> Yes. And the good news for you, Senator Jackson, is that the Proposition 47 issue, which is item number 9, actually, did not have challenges in terms of the approach. So, this one is more related to realignment, and I can give you a little bit of the detail as to part of the discussion that took place.

>> Great. I think they are sort of connected in terms of public policy, so I'd appreciate it, if you wouldn't mind.

>> Certainly. One of the things that we had discovered is that while there was a good methodology that we were looking to to determine how to distribute the money based on what was coming in, the challenge that we were trying to put our hands around, and there was a desire to look at additional data, but, the challenge that we were experiencing was that many of the cases that had been finished, if you will, but we were seeing within the courts additional workload for the parole violations on the backside. You will recall that many of the folks who would have ordinarily served time in the state institutions were now serving their time locally. And, we do not really have a good sense of what happened after they were released. And, as we had started to see the workload now, some of the jurisdictions have been experiencing higher activity related to the revocations. And, that was one of the things that the Budget Advisory Committee heard some comments about—whether it would be appropriate to look at what is happening with the revocation activities for the different courts, rather than focusing on the

workload that was coming in at the outset. And, as he had heard, the discussions were pretty extensive, and the conclusion that was made by the Budget Advisory Committee was to give courts the benefit of having those resources, and budget accordingly, and expand those resources to deal with the workload that was coming in. And, as you know, the Realignment Act has been around for a number of years, and this sense was that it would be more fruitful for the majority to receive the money early on, and so, that was the difference in the discussion that took place at the Budget Advisory Committee, to just rely on the information that has been received thus far. I don't know if that answers your question, Senator.

>> Well, if I understand what you're saying correctly, what you're saying is that given that you had enough data from realignment, because I think it has been out for three or four years, you thought that giving that money to the counties, to the courts earlier was justifiable based upon the experience dealing with realignment. Is that a fair statement?

>> That is a fair statement. I think what we are also trying to do within this subcommittee is make sure that we are not missing opportunities to capture workload, and, that was one of the reasons why there was a desire to look a little more closely at new data that was coming in, not just on the petitions that were being processed at the outset of the case, but rather looking at the resulting workload and doing with the revocations of the other side. And that was obviously raised with the Budget Advisory Committee, so, the methodology that was in place thus far would be sufficient.

>> As compared to Proposition 47, and that is item 9, correct?

>> Yes.

>> Okay, thank you.

>> David, this is the Chief. So, I seem to recall when you had the original discussion at Judicial Council about the first allocation of this money, I remember that there was discourse amongst the members, because some felt that the results weren't very indicative. I should say, there was a discussion amongst some of the trial judge members that could likely be were in some courts likely been avoided, and that there was some concern as to why some courts seem to have lower expectations than others, and whether or not that was a resource problem or what the issue was. So, I think you recall in our Judicial Council discussions, the belief that that was the reason for holding back some of the money one year, to determine and look at the flow of revocation, not just the overall end result. And yet, this time when it came before the Budget Advisory Committee, by the membership, who has now more experience, certainly had the opportunity for input from these courts experiencing this and has looked at the data, made a decision, although not unanimous, to allocate all the money at one time instead of holding back in examining the basis for the revocation activities. Is that what I understand you to have said, Senator Jackson? And where we are today, having some data under our belt?

>> Yeah. And so you're absolutely correct, Chief. There was still a desire to hold back a little bit of the money, because some of the courts have not necessarily seen some of the filings that were coming in at the outset. And obviously we want to make sure that there was the ability to provide some resources for those courts that may not have seen some of the workload at the outset of realignment. But that, you know, operating for the last several years with it in effect, I think we have a pretty good idea of what is coming in at the front. The discussion that really took place at the Budget Advisory Committee relates to a high number of revocations and new cases that were being filed for those people who were on parole locally. And while we were not seeing those numbers at the outset, because many of the people were still certain time, we are now starting to see people who have been released and in a resulting impact to the local courts that may have imposed post-release community supervision on that particular case. So that is what we wanted to try to do, and that was part of the discussion that was raised at the Budget Advisory Committee, to perhaps take a pause and see if we are starting to see in the different courts an increase in the revocations and new offenses from those people who were serving local time.

>> Chief, this is Marsha Slough. If I may add a parallel discussion as well. We also talked about, had a lot of healthy dialogue, about some of the holdbacks and splitting up the allocation, and how that makes it difficult to plan your year out, fiscally, particularly when you have the 1 percent cap and you want to be able to plan as smartly as you can to assure that you are, you know, able to use the money as effectively and efficiently. And I know that was very important to the court as well, and a long dialogue about trying to, as best we can, and when appropriate, get away from multiple allocations on a particular item.

>> I appreciate this. It has been very helpful to have Senator Jackson ask the question and start our discussion. And thank you. I'm satisfied and realize that this is an important issue for members and there was disagreement. Of course, as always, reasonable minds can disagree, and there is a vote before us. I appreciate that. Thank you, David. In terms of questions on item 8, you may proceed with more, and then proceed to item number 9.

>> Thank you. And I did not have anything else to add with respect to recommendation for item 8. Okay. So, I will move to item number 9. And this, as I indicated, was a little more straightforward. And let me just give you a little bit of background. The cases that are involved with respect to Proposition 47 encompass two communities, or two populations of workload. One is those cases that are already under way, have the opportunity to be reclassified, or the individuals could be resentenced. So, for those particular cases, we could very readily capture the volume, although there was one issue that was a bit complicated, and that is how to counsel them, since so many of the petitions were being made orderly. And since November, when the proposition was adopted, we have since had communications with the trial courts, and we believe we have a good methodology for actually identifying those cases that were being reviewed by the courts. The other population of cases relates to cases that have long been exposed, and individuals have an opportunity to petition the court to have those cases reclassified from companies to the misdemeanors. That is a population, in cases, that we very much struggled with the subcommittee, to try to determine what the volume of those cases would be. And so the

recommendation of the subcommittee that was adopted by the Budget Advisory Committee was to divide the \$26.9 million into two blocks, with the first block of resources being 13.45. Half of the 13.45, which amounts to 6.73 million, would be based on the petitions that were filed between November and May. And the other half represents a pro rata estimate of all of the cases that were filed in the different courts over the last 10 years. The good thing is, the data that we have going back 10 years was very easily retrievable, and obviously took into consideration any fluctuations from year-to-year because all of the courts, generally, have had some levels of fluctuation. But, we wanted to use the estimate of the last 10 years of workload as a proxy to try to determine how much each court would be having to deal with and wanted to make sure that there was the opportunity for those courts to receive some of the resources needed to address the corresponding workload. So this particular recommendation as indicated was a unanimous recommendation to divide the \$26.9 million into two amounts. One is to use a hybrid of the number of petitions from, again, November through May, and the other half of the 13.5 would be based on a pro rata percentage to the different courts, based on filings over the last 10 years. And then, going forward, this particular item is to recommend that the remaining \$13.5 million be based on each court's share of the petitions for resentencing and reclassification from June 1, 2015, through November 31, 2015. Many courts remember seeing a little bit of a delay in the petitions that they are seeing because it has been extremely impactful to the criminal justice partners within each county, it requires a collaboration with the prosecuting agency, and the public defender's offices as well, to try to get their hands around these cases. And some of them have struggled to process the requests coming in from individuals. But, by now, we believe that we have our rough estimate of what the workload is going to be. And most of the counties are working pretty smoothly in complying with the requirements of Proposition 47. So this is the recommendation of the Budget Advisory Committee: to, again, recommend the distribution into two amounts, one that is a hybrid of petitions filed, filings, over the past 10 years, and then, the second half of the 26.9 being distributed based on the petitions.

>> May I just jump in for one second and just ask, I appreciate come into don't have any quarrel with the approach you are taking, but, it would be very, very helpful if the courts were able to keep their specific data so that we can see trends, so that we can anticipate going forward what the problems are going to be, what the claims are going to be, and what the financial needs are going to be to implement Proposition 47, so that it does in fact move the expectations of the public.

>> Senator Jackson, this is Zlatko Theodorovic. We are collecting extensive amounts of data through our office of Criminal Justice programs and working with the Legislature and Department of Finance in terms of tracking a number of items of data so that we can provide, you know, a full report of the impacts of the initiative on the system.

>> Great, thank you.

>> And Senator Jackson, this is David Yamasaki again. The importance of reflecting accurately the workload is something that has been expressed at the Court Executives Advisory Committee as well. We appreciate the resources that have been earmarked for Proposition 47, and we want

to do our best to provide the information that you need to have to make decisions going forward on how best to [Indiscernible] this workload. So, we have heard this message and are interested to give you as much information as we can.

>> Great. Thanks so much.

>> Thank you, David. That concludes your presentations on items 8, 9, A through C.

>> Yes.

>> Thank you.

>> Chief, this is Jim Fox. Just a technical correction, on page 13, there are several references to the November 31 date. November only has 30 days.

>> Staff needs all of the extra days they can to get the work done. Thank you for the correction.

>> Thank you. On page 13 of your materials, explaining the options and issues for recommendations, so noted, greatly appreciated. Wherever it says November 31, at least two places, no, yes, two places, should be corrected to November 30. Thank you.

>> I would entertain a motion to adopt items 8 and 9 and a second by the presentation made today.

>> Fox has moved.

>> I'm sorry, who is moving?

>> [Overlapping speakers]

>> Fox moved it. And Judge Nadler, second.

>> Fox moved, Judge Nadler second. Do I hear any further discussion on the items as indicated? Not hearing any, all in favor, please say "aye."

>> Aye.

>> [Overlapping speakers]

>> Any opposed? Any abstentions? We adopt items 8 and 9, as indicated. I thank the presenters and staff for presenting to us very [indiscernible] with historical backgrounds to help us all understand this. And we were able to do it off of the materials that were written and provided publicly. Thank you. It was a difficult subject, 80 percent of them well. And simply, in my view, thank you. Well, we are at the end of our meeting today. And as we always do, if necessary, we conclude with a brief remembrance of our judicial colleagues recently deceased. I start with Judge Jan Plum, who was still active on the Superior Court of California, Los Angeles County,

who passed away in June. The other colleagues were retired from the bench, Judge James Darrah, Superior Court of San Joaquin County; Justice Virginia Days, Superior Court of Santa Clara County; Judge Marvin Haun, Alameda County Municipal Court; and Judge Peter Stone, Superior Court of Santa Clara County. We honor them all for their cause to justice. Our next regularly scheduled business meeting is in San Francisco on August 20th and 21st. I will see you there. Thank you for your time and your interest today. We stand adjourned.

>> Thank you.

>> Thank you.

>> [Event concluded]