

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 meeting of October 25, 2013. 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.

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Could everyone take their seats?

Good morning. This is the second day of our business meeting of the Judicial Council of California for October 25, 2013. This is a continuation of our two-day council meeting. The meeting is now in session. We're on the air. In addition to the council members here in the boardroom, I understand that soon Presiding Judge Ellsworth will join us by teleconference. She was here yesterday and will be joining by phone today. I also remind council members as I will at every meeting that our meetings are audiocast live with real-time captioning on the California Courts website and portions of our meeting are also recorded for later use on the California Courts website. For this reason, for the benefit of the online audience and for council members joining by phone, please remember to speak into your microphones and address each other by name so listeners and real-time captioning readers can follow our discussion. I also see here in the boardroom our NJO faculty members and participants. So before we begin, I'd like to recognize those judges joining us in the boardroom this morning. I'm pleased to welcome the faculty members and participants from the New Judicial Officer Orientation Program. I'd ask you to stand, please. The four faculty members are Judge Duryee and Judge Gee, Judge Korn, Judge Weathers. [Applause]

As all of you know and have participated, these faculty members volunteer their time to come help with and teach the New Judge Orientation. Along with 12 judges participating in the program, I ask that you please stand so that we can give you a hand. [Applause]

I guarantee all of you that all of us remember NJO. I believe we have some future Judicial Council members in the group; welcome.

Our first order of business is the approval of the minutes of our August 22nd and 23rd meeting. I know you've had a chance to review that. Is there a move for adoption?

I so move, Dave Rosenberg.

Thank you, Judge Rosenberg.

A second by Judge McCabe and Judge Jacobson. Any discussion? Not hearing none or hands raised, the matters are approved. Next on the agenda is our regular report. It starts with my regular report as Chief Justice to the council. I summarize my engagement and outreach activities for the branch since our last meeting, which was late August—August 22 and 23. My engagements can be characterized in categories as Bar Association events, judicial branch-related events, civic education and outreach opportunities, justice system partner functions, trial court visits, and media relations activities. All of them are opportunities to educate and inform people about the good work of the judicial branch, our needs, our issues, and also to build relationships and to focus efforts and resources to achieve the shared goal of equal access to justice for all Californians. I began this reporting period in Los Angeles with the annual summer reception at the Multicultural Bar Alliance; that's a group of 18 minority and specialty bars of Los Angeles County. Also the Asian Pacific Bar Association of Sacramento had an annual awards dinner and gave it me the opportunity to introduce a role model for me, Gloria Ochoa, as the winner of their community service award. Attendees to that function included representatives from the state or federal courts, local community regional organizations, law firms and attorneys, and Judicial Council members from Sacramento. Just as our Judicial Council trial court liaison program provides council members with the opportunity to meet with trial court leadership, judges, and administrators to listen and learn and as Judge Jahr has regular visits with local trial courts, and I believe Commissioner Alexander will be giving us a liaison report this morning, I too take the opportunity whenever possible to meet with the local courts and their justice system partners. And during this period I met with the Superior Courts of Sutter and Yuba Counties—their leadership, judges—as well as the Yuba Sutter Bar Association and members of the county board of supervisors and city council members. I paid a visit to the Amador Superior Court and met with the judges and court staff and had a tour of the courthouse, arranged by Jody Patel, and met with the Amador County Bar. During this trip, I received a number of interesting gifts, especially my new favorite, a handcrafted whip by retired Judge Howard. I will have to bring that one of these days to show you. [Laughter]. Someone is laughing too much over there, Brian McCabe.

It took him a while to get it.

Also, former council member Judge Allen Hardcastle, former president of CJA, and retired Judge Andrea Ritchie, from the Assigned Judges Program, led me on a tour of the Juvenile Justice Center of Sonoma County with the chief probation officer, head of juvenile hall, and the head of the Boys and Girls Club of Sonoma County, which is located *in* juvenile hall. It was very impressive. Judge Nadler arranged a meeting with the Sonoma County Bar with judges and attorneys and from Sonoma and surrounding counties. Under judicial branch–related activities I had an opportunity to answer questions from judges and trial court executives when I attended the Trial Court Presiding Justices Advisory Committee, Court Executives Advisory Committee, and Conference of Court Executives statewide business meeting in San Francisco led then by presiding Judge Earl and David Yamasaki. I also had the pleasure of hosting visits in my chambers by two groups of judges attending the New Judge Orientation Program, as well as an interesting visit by judges from Macedonia, organized by a new Judicial Council member, Frank McGuire. October is also a busy month for our state judges and attorneys with the annual meetings of the California Judges Association and the State Bar of California. I visited San Jose and Monterey to participate in events with Judge Jahr and members of the AOC. As with our own Judicial Council swearing in yesterday, I was called upon to do a number of similar ceremonies for the turning over of the reins at these meetings, and I gladly did so, including the new State Bar President Luis Rodriguez, the first Latino bar president, and the new State Bar officers, the new board members of the Conference of California Bar Associations, and I administered the oath to the new CJA president, President Rob Glusman, and our judicial council members and the CJA board and officers. I had the opportunity to see many of you at these functions—Jim Fox, Dave Rubin—many of you at these events, as well.

I have spoken in the past about how important I believe the oath of office is and the pledge it contains to protect and defend the California Constitution. The fiscal crisis and budget hysteria the last five years have required, I think, a new form of protection and defense. The State Bar meeting brought me a full calendar of events with many of you here as well and an opportunity to renew old acquaintances, establish new relationships and also acknowledge the coalitions and groups that have been so vital to the voice of restoring judicial branch funding. I was pleased to be able to attend the Bench-Bar Coalition meeting headed/chaired by Judge Mary Ann O’Malley and the Access Commissions planning forum. I see Mary Lynn Lavery in the back from the State Bar as well as many of you and many judges also throughout the branch. I also believe that awards provide us with a rare opportunity to celebrate accomplishments and showcase role models, so I was pleased to be able to present the Ronald M. George Public Lawyer of the Year Award to Buck Delventhal and the Loren Miller Legal Services Award to Gary Blasi. I also attended the State Bar Awards reception and the Diversity Awards reception, where our own

Judge Brenda Harbin-Forte received one of four diversity awards. I was accompanied on these many events by the tireless Judge Jahr and members of his executive staff at the AOC. There are a lot of events and functions with the bench and bar, the luncheon, the Morrison address, the California Appellate Project 30th anniversary celebrating *Gideon v. Wainwright*, and of course my annual CJA conversation with the Chief. These events are some of the highlights in my annual calendar; very important to our branch. I encourage you all to attend. It is a long weekend but it is a pleasure and information packed and a great time to renew acquaintances and hear of issues facing colleagues. So happy to see many of our Judicial Council members there gathering information, participating, and enjoying each other's company.

Another area that has become very important to me personally is the whole area of civic learning and education and outreach, including how it relates to our juvenile justice system and ultimately how that would impact the adult criminal system. I attended the Annual Constitution Day Conference for K-12 educators sponsored by the Los Angeles County Office of Education, the Walter and Leonore Annenberg Presidential Learning Center at the Ronald Reagan Presidential Foundation, the Constitutional Rights Foundation, the Center for Civic Education, and the Arsalyn Program of the Ludwick Family Foundation. Had an opportunity to meet with educators. Talked about the importance of the judicial branch headed by Justice McConnell and many others. Had an opportunity to tour the retired Air Force One. Very interesting. We also had a Power of Democracy strategic planning meeting and two education and outreach opportunities with UC Berkeley's Law California Constitution Center, a conference on the Supreme Court of California, and Justice Baxter and I, with our colleagues on the Supreme Court, held an oral argument special session at Berkeley involving not only the law school but Bay Area high schools as well. I was thrilled, therefore, when a former colleague and now ambassador to Belize, retired State Supreme Court Justice Carlos Moreno, and nine other civic and community leaders, recently established a nonprofit educational foundation to promote the principles of democracy through civil awareness.

I'm excited to join Attorney General Kamala D. Harris as an honorary director of their foundation. You might've read about this foundation. It's called the Foundation for Democracy and Justice. It includes a number of current and former Judicial Council members in its ranks. I'll give you the list: Justice Moreno, and cofounders and directors of FDJ are Lee Baca, Los Angeles County Sheriff; Frank Damrell, retired district court judge in Sacramento; Joe Dunn, chief executive officer of the State Bar of California, retired Senator; Arturo González, partner in the San Francisco office of Morrison Foerster; Larry Kramer, president of the William and Flora Hewlett Foundation; Edith Matthai, partner in the Los Angeles firm of Robie and Mathai; our very own Mark Robinson, Jr., senior partner at Robinson Calcagnie Robinson Shapiro Davis, Inc.; Mark Yudof, former president of the UC system and now a professor at UC Berkeley School of Law; and Allan Zaremberg, president and chief executive officer of the California Chamber of Commerce. FTJ will seek to educate the public about roles, responsibilities, and goals of the judicial, legislative, and executive branches of government, with an emphasis on the

need for an impartial and effective judiciary. The hope is to increase awareness about the relationship between adequate state funding for the judicial branch and our ability to deliver equal access to justice in California.

I also regularly make myself available for comment or to respond to queries from the media. During this period I also did a planned interview with Scott Schaffer for the inaugural edition of his new current affairs TV show, *KQED Newsroom*, and also for KQED radio's the *California Report*. I recorded a video interview with the Consumer Attorneys of California for their year in review. Their theme was access to justice and the issue of court access and how the Consumer Attorneys of California supported the branch by funding in our advocacy efforts. I also met with the Civil Justice Association of California board members. The John F. Kennedy Library Foundation and Bingham McCutchen hosted a panel discussion, JFK50: Justice for All, and I had an opportunity to participate with Condoleezza Rice, William Swanson, Thurgood Marshall, Jr., and Judge Terry Jackson (our council member) nephew, Jason Collins.

Two nights ago, I had the pleasure of participating in the Disability Rights Advocates' 20th anniversary event. I participated in a conversation with Federal Judge Thelton Henderson on a variety of topics including civil rights and the future of civil rights in California. Finally, looking forward on November 7, I'm hosting a meeting to discuss what I can do, what the branch can do to assist in expediting resentencing hearings related to the three strikes format, Prop 36. As Frank McGuire has pointed out, unfortunately Prop 36 has two important meanings in the judicial branch. This is the latter Prop 36. With assistance from the AOC's office, I'm focusing on counties with some of the highest numbers of pending Prop 36 cases. I've asked presiding judges and district attorneys and public defenders and representatives of the California Department of Corrections and Rehabilitation to join me for this discussion. That concludes my report to the council. Next we'll hear the Administrative Director's report from Judge Steven Jahr.

Thank you, Chief. Good morning, all. The written report of the Administrative Director, which you will find in your materials, does as always summarize that which occurred since the last council meeting in terms of activities, programs, and services in the AOC. I certainly invite your attention to it as well as the attached statistical information at your convenience. I'd like to briefly highlight a couple of items. First of all, I would like to recognize at her first Judicial Council meeting as chief counsel, Debra Brown. [Applause].

Debbie's appointment, which was effective on October 1, came after an open recruitment with a number of very fine internal and external candidates. She was our first and top choice and is a worthy successor to Mary Roberts. I would like to thank Justice Miller for serving on the interview panel in that activity, successful as it was. We are very fortunate, of course, that Mary is still with us and continues to serve as special counsel to the administrative office or the executive office as she completes her service in the month of December. She was very kind to

provide us with that level of advance notice so we could conduct this recruitment, identify her replacement so that there would be a rational transition period. Debbie and Mary have always worked very well together and I know the transition is going smoothly. We are grateful to Mary, whom we will have an opportunity to recognize for her public service in the December meeting.

Debbie, as many of you are already aware, has had 15 years of exemplary service with the Legal Services Office at the Administrative Office of the Courts. She served as legal counsel to the Task Force on Trial Court Employees. She worked on the development of a personnel system for trial court employees and collaborated on drafting the Trial Court Employment Protection and Governance Act. She served as supervising and then managing attorney of the Legal Opinion Unit. Debbie also worked closely, of course, with Mary in addressing legal issues for the branch and all of our courts. She has earned the confidence, I know, and respect of our council members, justices, judges, and court administrators with whom she has worked through the years and will continue to ably serve the council and the administrative office and the courts.

Turning to the facilities program, the new Governor George Deukmejian Courthouse in Long Beach opened in early September. There will be a dedication ceremony this coming month. We arranged a visit to the new court building by General Counsel to Speaker Perez and the policy director to Senate President pro Tem Steinberg, and they were joined by the chair of your Court Facilities Advisory Committee, Justice Brad Hill, as well as Justice Jeffrey Johnson, chair of the Courthouse Cost Reduction Subcommittee; AOC Chief Operating Officer Curt Child; and Capital Program Office Director Bill Guerin. It is a proud new building and has a fine safety record in its construction. I will also say that I had the opportunity to address participants at the dedication for Tulare Superior Court's new South County Justice Center in Porterville, which opened for business in October. It was a great celebration for the court and the community and as with other new court facilities, there was an enormous outpouring of community pride and much praise for our Capital Program Office and their fine execution of that project. On the new construction front, Justice Hill spoke on behalf of the Chief Justice at the groundbreaking ceremony for the new Hanford courthouse in Kings County, on which construction is now under way. The 12-courtroom facility is anticipated to open in the spring of 2016. Updates on the Hanford project as well as on all other construction projects may be viewed regularly on the California Courts website.

Turning to the disaster recovery exercise, AOC completed the ninth annual disaster recovery exercise successfully demonstrating that infrastructure, network services, and applications hosted at our California Courts Technology Center can be safely and securely backed up and restored. The program goal was full recovery within 72 hours and we were successful in beating that goal by a significant margin with full network and applications recovery in 44 hours. Special thanks to the managers and staff from the 10 trial court who volunteered to participate in testing over the weekend of that exercise: Fresno, Imperial, Lake, Merced, Sacramento, San Benito, San Joaquin, Stanislaus, Ventura, and Yolo Counties. And special thanks also, of course, to Mark and our guys at ITSOC for doing a great job. I'm also very proud to observe that Curt Soderlund was

invited to present at the annual 2013 Gartner Symposium and IT Expo on the East Coast regarding the implementation of our very successful Phoenix Financial HR and Payroll Systems. It was attended by CIOs and tech chiefs from around the world. I know that there are trial courts in our system that wait patiently in line for inclusion in the HR payroll side of Phoenix when the resources permit.

I've had the opportunity to visit trial courts along the way, but between the budget activities of the past budget season not to mention a good deal of visiting with members of the AOC staff, I have been somewhat retarded in those opportunities. Happily, since the last council meeting in August, I have been able to travel to 24 of our superior courts. I've gained certainly a three-dimensional understanding of that which appears on paper concerning each of our courts. I was greeted in each instance warmly by the presiding judge, the chief executive officer, and in many cases many staff and judges of those courts. As your own council member liaison reports reveal, this is a glass-half-full, not a glass-half-empty, group of folks. Whether urban or rural; large, medium, or small; north, central, or south; underfunded or woefully underfunded, there is a sense of urgency in meeting the challenges of today accompanied by a real sense of inventiveness and innovation that is present throughout these courts in meeting the challenges that we know they all face. I encountered a number of instances of really creative calendar reform and reorganization as courts work to offset closures of departments and in some cases entire court facilities. I had the pleasure of talking shop with judges involved in that calendar design work, which I always used to enjoy being involved in. On the administrative side, there has been considerable process reengineering that goes on to streamline the processing of the case flow, not to mention the handling of citizen work at the counters and frankly balancing the two.

The innovation has also included, I think, a very interesting phenomenon of collaboration between neighboring trial courts in an effort to leverage the resources that are available. One court for example collaborated with another to hire a joint IT manager to manage and handle all of their IT work, saving money from the money they used to have to spend on an outside consultant. Other courts have banded together to commonly hire an attorney to manage their self-help programs, arranging for appearances and community access by use of Skype among other tools. We all know the Riverside effort to create a collaborative buyers group. Similarly, my former court, Shasta Superior, hosts six other trial courts in a very successful consortium for collecting fines, fees, and forfeitures, far outstripping what the counties for those courts previously did in their behalf. Also noteworthy are the consortiums that have developed amongst trial courts to obtain discounts in the purchase of replacement CMS case management systems where rickety and old systems, which are at risk of not being well maintained, are confronting those courts. Obviously one-time fund balances and reserves are considered for those activities, and these creative collaborations have worked to the benefit of those courts as they work to try to solve their technical challenges. It is a can-do attitude that I've found in each of the superior courts and something certainly in which the citizens can confidently reflect.

I also should tell you that—unsolicited—the CEO and the PJs volunteered thanks repeatedly to the different offices of our agency, the Administrative Office of the Courts. I already mentioned Capital Programs, also Burt’s Real Estate and Facilities Management Unit was thanked for the help that they provide in the repairs, which are incessant and constant, to an array of old and oftentimes poorly maintained buildings, that is to say buildings that were poorly maintained by their previous owners. As you’re aware, that office—REFM, as we now call it—is responsible for some 19 million square feet of existing court facilities. We received thanks most recently from San Francisco relative to efforts to resolve a very tricky elevator problem in that jurisdiction. Likewise, thanks to Donna and COSSO for successfully administering the Chief’s Assigned Judges Program, which is a true lifeline for several of our courts. Thanks was passed on to Maureen in Special Projects for the process reengineering work she has done in collaboration with Kim Turner and others as the administrative sides of trial courts seek to find ways to more effectively and efficiently process the undending work with fewer resources. Thanks were also offered to the Criminal Justice Court Services Office, that Shelly runs, for assistance and backup essentially in the efforts by the trial courts to effectively implement their alignment that is so challenging on the criminal side of our houses. Diane at CJER of course received thanks as we know regularly flows to that office for all the help they provide in judicial education. In this instance, however, With regard to an innovative regional program being prepared for the tricounties area along the coast to save travel time for court staff and staff training and to save money associated with that.

Repeatedly, the courts gave appreciation to Ken and HR for the excellent services they provided in the ever-growing labor negotiations activity and there was any number of thanks for the services of LSO to the trial courts. As you know, when the trial courts call LSO, it is not for scheduled maintenance. It is for something that needs to be done yesterday because there is a fire that needs to be put out, and time and again I was given thanks to pass on to LSO for the fine work they have done—high-quality and on time. Elbow grease, midnight oil I guess is the way they do it.

Those statements of appreciation were heartfelt and given in recognition of the fact we are short-handed. It was happily received and I pass it on to our staff who well deserve that praise. Finally I should mention to you that the PJs and the court executives relative to the matter of budget as we look down the road at fiscal 14/15 see fiscal 14/15 as the watershed that the Legislative Analyst’s Office in its report last year said it would be for the twin reasons that we will no longer have fund balances to subsidize courts who have structural deficits, and we will no longer be able to resort to the repeatedly invaded instruction revenue stream by way of redirections, which means substantial new general funds will have to come forward if we are simply to tread water. The trial courts are fully aware of that circumstance and doing level their best to prepare for it. I should also mention regardless of who I talk to, be it an underfunded court or a woefully underfunded court that was large or small, one that was barely able to rub two nickels together or otherwise, the preservation of fund balances was at the very top of their list of priorities, to

enable them to manage their cash and to business plan for longer than simply 12 months. They asked How can we help? What can we do? And of course the answer was, as it always is, contact your legislators, have them come to court, come on the bench, see how our courts operate in their current state. Speak with their staff members both at home and in Sacramento. Coordinate your advocacy efforts through Cory's office at OGA, where we have all the resources available for them to assist in the advocacy program and to coordinate with Judge Walsh and with David Yamasaki, the chairs of our PJs and Court Executives groups, to ensure the message is reinforced and reinforced and then reinforced again.

It was a really splendid group of meetings. I only wish I had had the opportunity to meet with all the courts, which I intend to do over time. That concludes my report, Chief.

Thank you. Next on reports we'll hear from Judge Kenneth So, PCLC.

Yesterday you had a chance to meet our new Office of Governmental Affairs Assistant Director Laura Speed. PCLC is thrilled to have her join our team, and we know she will ably represent the council on the branch. With the September 13 close of the 2013/2014 legislative session, the meeting schedule for the Policy Committee has slowed since Justice Baxter's last report to the Judicial Council. The Policy Committee has met three times taking positions on behalf of the Judicial Council on various matters. On September 3rd, PCLC voted to take an oppose-in-part and no-position-in-part on Senate Bill 569 related to jury instructions. The Governor, however, has signed that bill. At its September 9th meeting, the committee took a neutral position on AB 1127, which relates to court interpreters, and the Governor vetoed that bill. Additionally, PCLC voted to oppose Senate Bill 743, which required the council to adopt a Rule of Court to establish procedures applicable to certain lawsuits seeking review of a public agency's action in certifying an environmental impact report and in granting project approvals for a downtown arena project in the City of Sacramento. The Governor has signed that bill. Yesterday's meeting was the committee's annual in-person meeting where we provide an orientation for new Policy Committee members on the operations of the Policy Committee and we review and make recommendations for Judicial Council-sponsored legislation which will be presented to the council at its December meeting. I would like to welcome our new Policy Committee members, Judges Steven Baker, Sherrill Ellsworth, Robert Glusman, David Rosenberg, Mr. Mark Bonino, and Mr. James Fox. And we welcome back our returning members, Judge Jim Herman and our vice-chair, Jim Brandlin.

At yesterday's meeting, PCLC reviewed a proposal for Judicial Council-sponsored legislation that came up to the advisory committee process and public comment relating to tribal access to confidential juvenile court files. We also adopted the 2013 legislative policy summary.

I am pleased that Justice Baxter has decided to remain on PCLC. It is not often I notice a mistake a Supreme Court justice has made, but he did give me his cell phone number. I thank him for his thoughtfulness and graciousness and words of wisdom. The Legislature will reconvene on September 6, 2014, for the second year of the 2013/14 two-year session, and throughout we will be bringing you updates on Judicial Council–sponsored bills, budget issues, and bills of interest to the branch and if anybody has any questions about any of that, please feel free to contact me. That concludes the report, Chief.

Thank you, Judge So. We'll hear next from Executive and Planning Committee, Justice Miller.

Thank you, Chief. I think I'll first note that I have never seen the Supreme Court make a mistake. [Laughter]. At least I'll publicly say that. For the benefit of our new Judicial Council members and for any of those listening to our audiocast, the primary role of Executive and Planning is to set the agenda for each of our meetings as well as to oversee certain tasks delegated to us by the council. Each year, the Chief Justice rotates a portion of our Judicial Council members on and off various internal committees so we can each have the benefit of bringing in fresh and diverse voices. This month I want to welcome our new E&P members. They include our vice chair, Judge David Rubin from San Diego, as well as Sacramento Judge David De Alba, Santa Clara Judge Brian Walsh, Alameda Commissioner Sue Alexander, and Contra Costa Judge Mary Ann O'Malley, who by the way I have sitting next to me so I can maintain a modicum of decorum during our meeting.

Our attorney members are James Fox and Mark Robinson. Thank you Judge Teri Jackson, Judge Steve Baker, and Court Executive David Yamasaki for staying on our committee and not persuading any of our new members to try another one. Our capable AOC staff members will post a full report online after our meeting, but I would like to mention a few of the oversight activities we have been involved in. As one example, two years ago our committee asked the Accountability and Efficiency Advisory Committee to examine business processes in the AOC. Sure enough, in August, this past August, after studying the issue, the Accountability and Efficiency Committee came back with guidelines to the council, which we have approved. I am happy to see the guidelines will improve the content and context of vendor contracts in order to provide more transparency and to facilitate oversight of the AOC by both the advisory committee and the Judicial Council.

And speaking of vendors, one of the delegated tasks to our committee was to help finalize and select a vendor that will conduct a classification and compensation study of the AOC. As some of you recall, the study was highly recommended by the Strategic Evaluation Committee, and the Judicial Council turned it into a directive in August of 2012. In June, the council decided and delegated to E&P the process of authorizing a contract and a vendor. On behalf of the council,

the Executive and Planning Committee reviewed the methodology, criteria, process of scoring submitted bids, reviewed the final bids and findings, approved the selection of the highest-scored bidder, and directed the AOC to proceed with contract negotiations. Also, one enormous task for our committee has been the oversight of the Judicial Council directives based on the recommendations of the Strategic Evaluation Committee. The committee has leaned heavily, E&P has leaned heavily on the invaluable input of the three Strategic Evaluation Committee members the Chief Justice appointed to the Judicial Council: their chair, Judge Wachob; their vice-chair, Judge McCabe; and Judge Sherrill Ellsworth. And thank you, thank you very much, for your assistance in this process and your insight and input. A fuller report on our progress is attached to our agenda as an informational item. I would like to point out, though, that on September 27th, E&P and the three SEC members met in person for an entire day with AOC managers and executives to review the completed Judicial Council directives, those in the process of being completed, and those that will be completed in the future. Council members attending the meeting were pleased by the process of the AOC restructuring and I am sure we may hear at some point today some of their comments, their experiences and perceptions in that regard. We believe the remaining directives are currently being completed within a reasonable amount of time given their complexity or contingency on the completion of other directives such as the classification and compensation study. We have decided that the committee, E&P and the SEC members, will reconvene at various intervals during 2014 to review the continued completion of the next group of directives, much and many of them related to the completion of the AOC classification and compensation study.

The one item that remains on the discussion agenda for action today is our recommendation to terminate, modify, or retain certain delegations of authority to the administrative director. I will reserve more time to talk about that when we are at that point on our agenda for today. And, Chief, this completes my report. I would like to add my observation that none of this work could have taken place without, again, your foresight, your commitment to reassessment, and the values of patience and deliberation you brought to the council and to this process. So thank you, Chief.

Thank you, Justice Miller. Next we'll hear from the Rules and Projects Committee, Justice Hull.

Thank you, Chief. Good morning. Good morning, ladies and gentlemen. On behalf of the Rules and Projects Committee I can report to you that we have met three times since August 23rd, our last council meeting, once by phone, once by videoconference, and once in person. Specifically, the committee met by videoconference on September 9th to review proposals for new and amended rules and forms in a proposal for ethic standards for neutral arbitrators and contractual arbitration. Except for a proposal for technical amendments, all of the proposals we discussed

that day had circulated for public comment during the spring cycle. RUPRO recommends approval of these proposals, which are Items A1 through A4, A6 through A29, and A31 through A33 on the consent agenda. In a joint telephone meeting with E&P and the Technology Committee on October 10th, RUPRO consider public comments on a proposal to establish two new Judicial Council advisory committees and to adopt the necessary rules for those committees. They are the Tribal Court/State Court Forum and the Court Security Advisory Committee. The same proposal would also repeal the rules concerning three advisory groups that no longer exist, and the proposal implements recommendations in the report and recommendations to improve the governance structure and organization of Judicial Council advisory groups submitted by RUPRO, E&P, and the Technology Committee and approved by the council in April this year. RUPRO recommends approval of this proposal, which is item 30 on your consent agenda today. Yesterday RUPRO met in another joint meeting with E&P and the Technology Committee to consider additional new amended and repealed rules for advisory groups and the Technology Committee. RUPRO approved circulation for comment of this proposal following circulation and further consideration by the three internal committees that I have mentioned. The proposal is expected to come before you at the February 2014 business meeting.

RUPRO also yesterday had a short orientation for new RUPRO committee members and I would like to welcome those members. They are Judges Brian McCabe and Dean Stout, Ms. Angela Davis and Ms. Mary Beth Todd, and they serve with the members that have been on the committee for the past year or more, happily. We appreciate everybody's efforts. Finally, RUPRO by e-mail met so to speak on October 1st to consider a request by the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee to take certain action in response to legislation involving CEQA. RUPRO approved the amendment of advisory committees' annual agendas and the formation of a joint working group to address these matters.

I would like to also on behalf of RUPRO, Chief, if I may, note that we have lost so to speak Ms. Debbie Brown as chief counsel—not truly. She promises to be of assistance as necessary, but I do want to acknowledge her efforts and those of Susan McMullan and Patrick O'Donnell and Camilla Kieliger and I'm sure many others that I have not worked as closely with over the past 18 months on the RUPRO committee. I have to say that I have consistently been impressed and appreciative on behalf of the committee of their really excellent support, and that support has come to us without fail almost on a day-by-day basis, and on behalf of the Rules and Projects Committee I would very much like to thank them and the other AOC staff for their work and their dedication. And on a matter, Chief, if I may, which really doesn't relate to RUPRO, I just wanted to make mention because it has received such a positive response: my court, the Third District Court of Appeal, under the committee leadership of Justice Kathy Butz, conducted what I think is the first-ever—at least the first in a long time—conference—Third District Court of Appeal conference—where we invited the presiding judges and court executive officers and others of our 23 counties to Sacramento on Friday the 21st and Saturday the 22nd of September. We had a social event the evening of the 21st. We had three 1-hour educational sessions on

Saturday and also tours of our newly renovated historic courthouse. I enjoyed the event a great deal and I know my colleagues on the court did and we've had a great deal of very positive feedback. We invited prominent members of the bar, also—Mark Bonino was there—and I think it was a great success. I wanted to congratulate Justice Butz and her committee for putting on such a successful event. Thank you, Chief. That's the report of the RUPRO committee. I will answer any questions the council may have.

Thank you, Justice Hull. Next we'll hear from Technology, Justice Jim Herman.

Thank you, Chief. First of all, I'd like to start by welcoming our new members to JCTC. Judge David De Alba is the incoming vice-chair. He sat out for a year and has come back to our committee so we welcome him back in his leadership. Judge Sherrill Ellsworth and attorney Mike Bonino is also joining the committee. And of course I welcome back our current members. I also welcome back new member David Yamasaki. David wears many hats, is usually busy, but he has agreed to help us. It will be terrific to have a CEO continuing on the committee. I'd also like to welcome back in appreciation Judge Teri Jackson and Mark Robinson and Judge Elias back to the committee. Moving onto the discussion of the committee's work since the last Judicial Council meeting.

[Indiscernible]. Pardon me. Oh, oh, oh. Am I chopped liver, she says. No, Justice Ashmann-Gerst, you are not chopped liver. Caviar and cashmere (C&C). Her contribution is much appreciated because she keeps reminding us about the Courts of Review and their technology. Every time we talk about the trial courts, Justice Ashmann-Gerst reminds me that there are also technological needs for the Courts of Review. We have held two full committee meetings since we last met in August. At our September 23rd telephonic, we went over the progress of remote video, a [indiscernible] pilot project for remote traffic trials from Fresno and reviewed their first very positive progress report. We got updates from CTAC (Court Technology Advisory Committee), from Rob Oyung and the Technology Planning Task Force. We spent some time discussing the Chief's Access 3D message, particularly the remote access piece and how it aligns with what our technology efforts are going to be.

On October 23rd, we had our face-to-face orientation. That was last Wednesday. At the orientation, it was an all-day meeting and really terrific. I think everybody came away with a real significant, in-depth understanding of all the good stuff the Information Technology Services Office does, both within the AOC, as well as for the trial courts, the Courts of Review, and court users in the state. Mark Dusman and his excellent staff—Renea Hatcher [phone list says *Stewart*], Virginia Sanders-Hinds, a number of his managers, and of course the administrative support of Jessica Craven—provided educational briefing on ITSO's organizational structure, its work inventory, services provided to the courts. We actually had a field trip going down to the

tech center—that is, the onsite, smaller tech center—to look at the machines and gears and wiring in terms of what supports us from a mechanical technology perspective. Also, Mark's staff gave an educational presentation on IT management at industry standards. As the council will recall, the council directed JCTC to report back on application of generally accepted IT industry standards and this is in light of the Alameda Superior Court case-management audit that revealed substantial departure from IT standards. It is part of our work for the year, and we will be reporting back to the council. So this is an education for our committee members in terms of all of the various administrative and technology standards that the IT community—both government and private sector—applies. We also had a presentation on the funding piece from Improvement and Modernization and Trial Court Trust Fund and support for the IT services that we do provide to the courts, and many of those are very important in terms of remote access and in terms of access to the courts. The California Courts Protective Order Registry, which protects victims of domestic violence. The local-area network and wide-area network support for 54 of the 58 trial courts. The Judicial Council and the court website designs. It's great because now we have got a design for the Administrative Office of the Courts and the Judicial Council and that same format and platform is being deployed by a number of courts. Phoenix Financial online fillable Judicial Council forms, which have a tremendous number of hits by lawyers, by self-represented litigants, self-help centers, legal services, and so forth. A real technology asset for the State of California.

Beyond that are other activities that the whole committee was not involved in. There was a mention of the Court Technology Conference sponsored by the National Center for State Courts. Curt Soderlund, Mark Dusman, and myself attended that conference, along with the chair and vice-chair of CTAC. It was really a terrific opportunity to see what other courts around the United States, both federal and state courts, are doing in terms of technology progress. One of the really interesting and curious things that was presented was the idea of holographic court appearances. It is sort of an out-there remote access issue at this point.

September 27th, we made a presentation in terms of our work to the CTAC committee. On October 3rd, myself; Judge De Alba; Rob Oyung, CIO from Santa Clara County; Curt Soderlund; and Zlatko participated in a technology briefing session regarding the Planning Task Force and its process and status to staff representatives from the Legislature both from the speaker's office as well as the pro tem's office, the Legislative Analyst's Office, the Department of Finance, and Cal Tech, that's the California Technology Department. The outcome was very positive. It is clear from their perspective our plan at this point is aligning with what particularly the California Department of Technology and what their ideas are in terms of how we should work together with the other branches. Cal Tech appraised the task force work as totally aligned with their best practices. There was a good outcome. We checked with them midpoint in our process to make sure we are moving in the right direction.

On October 11th, I participated in a panel discussion and also a presentation to the Bench-Bar Coalition. The Chief was present and we again talked about the remote piece of her Access 3D

and how again it aligned with what the branch's go-forward planning is as far as technology is concerned. To give you an update on the Technology Planning Task Force, we are in the process of finalizing the planning, governance, and funding-track projects with the goal of—at this point, we're on the verge of just circulating to all of our branch stakeholders and all of our external stakeholders—the task force is a very busy group. The whole task force met by telephone on September 24th and in person on October 10th and the various tracks we had over 15 additional meetings and work sessions on the three tracks since our last August meeting. So there's been a substantial amount of work. I want to emphasize in terms of buy-in from all of our courts that we have 44 people donated by the trial courts—judges, justices, CEOs, and court information officers from all over the state representing courts large, small, and medium—that have had input to this process. This is part of the council's direction to this committee to make sure that our go-forward process is in collaboration with the courts.

We've also, in terms of where we are going with this to our stakeholders, this week we are meeting with the Trial Court PJ Advisory Committee and making a presentation to CEAC next week. We will take it to the appellate clerks and the appellate presiding justices meetings in the near future for comment and input. We have got regional meetings scheduled in November and December to seek additional input from trial court PJs and CEOs, and we will come back to the council at the December meeting to discuss our process and input.

The task force also—this kind of meets what some council members have commented on relative to the courts that have come to us one at a time with case management needs and desperate needs in a lot of ways. The task force has developed a draft for circulation to our stakeholders, a draft evaluation matrix based on information technology industry protocol. This is a group of factors to evaluate tech projects, both administratively, business case, and in the case of our court we've added a substantial access piece. This protocol is transparent. It has got objective criteria to allow JCTC and the counsel to evaluate and prioritize information technology projects. This will provide the council with a consistent evaluation rather than a case-by-case evaluation of the court projects. This is sort of a launching platform in anticipation of the budget change proposal timeline. The task force has surveyed the trial courts to identify courts interested in applying for budget change proposal funds to upgrade or replace their case management systems, and in the case of large courts obviously the funding stream, if we achieve it, is not going to be large. We have invited the larger courts to apply for pilot projects or singular case types in terms of case management. The responding courts have been provided with this evaluation matrix so they know exactly what we will be looking for in terms of prioritization, and the Technology Committee with the support of ITSO will beta-test the tool. It is still subject to modification. We're going to see how it works. Beta-test the tool to identify and recommend two to three projects to the council for BCP consideration to be forwarded to the Department of Finance in February. Thank you, Chief. That is our report. If there are any questions, we would be glad to answer.

Thank you, Judge Herman. As you can see from these reports—I say this to the new members who already have surmised this and have served on many of these advisory committees—there is a great deal of preparation. As I indicated yesterday in my comments, for a proposal to make it from an advisory committee to council takes about a year’s worth of time, with many, many volunteers of judges and lawyers working on these proposals and vetting them and discussing them in a collaborative way with the public. That is only part of it. The other part is the tremendous assist that we necessarily and critically need from the Administrative Office of the Courts to gather this information and synthesize it and do the research and support the data and support the chairs and support all the volunteers to be able to do the best job we can for ourselves that really trickles down and intentionally is meant for the public. When I hear these reports and I think of all the meetings I attend and these meetings on top of those that are attended by all of you, it is really tremendous work and that it isn’t manifest by how we meet every month or every other month for two days and try to take action. I commend all the volunteers again and the AOC and the chairs for volunteering to take leadership in addition to your professional all-consuming work to move the branch forward. Thank you.

Next on our agenda we’ll hear from Commissioner Sue Alexander on her visits on behalf of Judicial Council as liaison to the Superior Courts of Alpine and El Dorado.

Thank you, Chief. Due to unplanned circumstances I wasn’t able to meet with Judges Kingsbury and DeVore at their actual courthouses. After the snow melted, Judge Kingsbury began a six-month death penalty case, which along with her PJ duties was and still is very time consuming. I was trying to coordinate the visits and by the time it was determined that the South Lake Tahoe visit wasn’t going to occur, the Alpine Court had moved to temporary quarters as the county is making reservations that may include their courthouse. I was able to meet with Judge DeVore at other meetings and have spoken extensively with Tania Ugrin-Capobianco, the El Dorado CEO, and hope to be able to visit their courts next year. I was able to visit El Dorado last year. Alpine is a very rural county with a population of 1,200. They have two primary employers that are both ski resorts. They have 1,600 to 1,800 filings per year, mainly criminal with a few civil cases as now the majority of their family and criminal matters are handled by the local tribal courts. They have no holding cells so El Dorado arraigns the in-custody cases and they reciprocate by presiding two days a month in the El Dorado court. The neighboring courts backup Alpine judges for telephone duties, such as EPO and warrants, since sometimes cell phone service isn’t as good as it could be. In addition to El Dorado, they also assist Amador, Inyo, Mono, and Calaveras County on an as-needed basis. They have gone as far as Modoc and Mariposa to assist with coverage. Their availability depends on their own commitments, the weather, and the road conditions. Since 2008, Alpine’s budget has been reduced by over 50 percent, as has their staff. They no longer have a CEO, and the judges with the assistance of the AOC handle the

administrative duties. They use AOC resources for HR, legal counsel, finance, administrative, IT, and security services. Their limited staffing, which is three, and resource availability generally is not recognized or understood by other courts around the state, but other courts and judges have been wonderfully helpful and the AOC is more than sensitive to their limitations and is terrific in providing services in many areas. Judge DeVore wants his gratitude expressed to Jody Patel and Curt Soderlund and the AOC assistants and is thankful for the benefits of such programs as Sacramento's research staff and L.A.'s planning and research unit and their digital library as well as individual judges who have shared their work product in specialized areas, such as San Diego's (I may pronounce these wrong) Gale Kaneshiro and San Bernardino's Elia Pirozzi, who provided information regarding felonies and evidence matrix.

One of the things he points out is in a small court you have to be able to do everything and you are not a specialist in anything and so the things that come up rarely require a lot of extra work. Their share of the \$63 million will avoid furloughs and keep their clerk's office open, though like many courts, their employees are very dedicated but haven't received a raise in four years. They have consolidated their calendars to reduce court reporter needs and to reduce appearances for their justice partners, who have also lost funding, such as the public defender and the sheriff. They also consolidated their self-help services into one day a month and have a contract attorney that provides that service. They use LanguageLine for interpreters, and the judges do their own research and all the clerical functions. The Alpine courthouse project was canceled so the county is doing an addition to the county administration building mainly to make room for the sheriff. The plan had been to make a connector between the administration building and the courthouse but community members are now concerned that the historical integrity of the courthouse will be affected by any modifications, so the plans may be revised.

The courthouse has no security other than cameras and a panic button as the sheriff is four miles away and only comes to the courthouse when court is in session. It is also not ADA compliant. With the planned connector they would be ADA compliant and the sheriff would be down the hall. Without it the sheriff will be around the corner and they don't think they can become ADA compliant since there isn't space for both the stairwell and an elevator and they can only install one unisex ADA-compliant bathroom. While the plan is being determined by the County, the court has leased a former preschool in Woodfords, which is two miles away from Markleeville, as a temporary courthouse with limited space, shared chambers, and no security. But things have improved. Two years ago the judges and staff had to shovel the snow from the walkways in order for the public to enter the building. The County now provides that service.

In comparison, El Dorado is large. They have nine judicial officers and five locations: three in Placerville, one in South Lake Tahoe, and one in Cameron Park. Their workload justifies 10.6 branch officers and they do have an additional judge approved but unfunded. The population is around 180,000 and filings exceed 30,000 per year. As I reported last year, their main courthouse in Placerville is falling apart in their new courthouse has been delayed. They have consolidated services by case type and due to the distances between courthouses use videoconferencing to try

to accommodate litigants. Like Alpine, they have security and ADA-compliance issues. They hope the courthouse project will proceed in the near future. In addition to what was reported last year, El Dorado has implemented additional efficiencies to deal with their ever-reducing budget. Their justice partners now have computer access to files so the clerk's no longer have to pull and copy files. Their ADR officer was released and now pro tems assist with the settlement conferences. They have converted to SoftFile for their traffic tickets, and with the assistance of their local DCSS, they have streamlined their DCSS procedures. The numbers of managers have been reduced and they are relying more on supervisors with the CEO and assistant CEO doing more direct management. They have a new family law facilitator and are relying more on volunteer attorneys to help with the self-help service. They are hoping to use some of their reserves to implement electronic filing, which is the first step toward e-filing. They are using their share of the \$63 million to eliminate the furloughs that have occurred over the last few years and to fund employee benefits. This was particularly timely because they had labor negotiations this year and the staff was happy to get the funds restored as they faced changes due to pension reform and ever-increasing health care costs. The additional hours will also help eliminate some of their backlog. They are spending their fund balances on improving IT and phone systems and want to reiterate, as Judge Jahr said, the need for fund balances in order to keep the courts functioning. They project a deficit in the 14/15 fiscal year of about \$400,000.

El Dorado generally likes the changes that have occurred at the Judicial Council and the AOC. They appreciate the services to the smaller courts that were preserved, especially things like assistance with labor negotiations and litigation support. As a member of the Trial Court Budget Advisory Committee, Ms. Ugrin-Capobianco is involved in resolving some of the parking lot issues regarding funding such as how to properly fund cluster-one courts and making sure salaries are based on comparable jobs. She would like to see more coordination of interpreter services. El Dorado has a hard-working corps of employees and judicial officers. They try to cover when they can and haven't used their allocation of assigned judges even with this six-month death penalty trial. Everyone has risen to the need. They have fewer employees than their allocation but there just isn't enough general funding to pay salaries and benefits. In closing, I'd like to do a short follow-up on my report with regards to Glenn County. I spoke with the presiding judge, Peter Twede, who with his CEO has done an analysis of their 13/14 budget, and expenditures are as expected. They will have \$127 left on June 30th, 2014. That will not cover one month's expenses. He continues to support legislation to increase the fund balances allowed, but by the time that is done, it is expected that most of the reserves will have been spent. He is looking to the Judicial Council for a process for requesting loans that will be needed by the court to meet their monthly obligations in a timely manner and is hoping that that will be in place before the June 30th deadline next year. That concludes my report.

Thank you, Commissioner Alexander. Justice Miller?

Thank you for that report and all you have done in that regard. I did want to alert all of the Judicial Council members who are liaisons to trial courts that myself and Jody Patel and Curt Child and Curt Soderlund—at the request of Diane Cowdry and her staff, and we appreciate it—spoke at the presiding judges conference and I just want to let you know that we handed out a sheet that has all of your liaison assignments and we specifically told them to call you. You may be expecting to receive those calls here in the next few weeks. I can tell you they really appreciate the liaison program. They appreciate the contact of each of you. They appreciate the trips you make and the information you provide and the source you are to answer questions and to get information back to them. So thank you, thank you for doing that, and keep up the good work. Thank you.

Thank you. Judge Stout and then Judge Herman.

Thank you, Chief. Just as a brief follow-up to Commissioner Alexander's report, I really want to commend Judge DeVore and the Alpine Superior Court. They are exceedingly generous in making themselves available to assist adjoining courts as Commissioner Alexander mentioned. And not just in our three-county appellate division, but under reciprocal assignments, I can't tell you how many hours Judge DeVore spends on the road to respond sometimes just the night before to a court in need. I think Judge DeVore and his court should be highly commended for their ability to help us provide access in the rural communities.

Thank you, Judge Stout. Judge Herman?

I just wanted to add to this that Steve Jahr, Judge Jahr, visited Santa Barbara County I think as was mentioned. My court was really attentive and comments were made like the services provided because rank-and-file trial court judges generally don't know the level of services that are provided by AOC because if you are on the executive committee, you're APJ or PJ, you're constantly dealing with the Legal Services Office, and Facilities, etc. It was a terrific meeting, Steve, and my court really appreciated it. There were very positive comments not only during the meeting but also afterwards. So as part of the liaison, that is a great thing you're doing going out to the trial courts.

Thank you. Judge De Alba?

Chief, thank you. I just wanted to make a follow-up comment about my report about San Joaquin County and something that concerned the council and you, the Chief, greatly about San Joaquin County and others that have suffered as a result of the budget cutbacks in courtroom closures. That was the inability to address small claims, that the court had stopped hearing and accepting filings of small claims. The presiding judge, Dave Warner, and I and the CEO had conversations over the last several months about that and discussions about possibilities of how to address that. I am pleased to report that San Joaquin County as of today has resumed (I don't remember if it was a week ago or two weeks ago) accepting filings on small claims and making inroads into cutting back the backlog of small claims cases that had not been heard during their closedown or shutdown, so to speak. I want to thank Justice Miller because I know he was very supportive of trying to address the situation in San Joaquin County.

Thank you, Judge De Alba. Those liaison reports as you know are very important to us. There was a time when we could go as a group to visit these but these are very helpful in informing us on making our decisions, and I know it's additional work on top of what we ask you to do in your spare time. Thank you.

What I would like to do before the consent agenda since we are ahead of time, I'd ask, in this order, Judge Jahr to provide some additional reports to council and I would ask Justice Miller to take item L and we would take it out of order in the time we have before we take our 11:00 break.

Thank you, Chief. This will be very brief. I neglected several offices within the AOC to whom thanks were directed. And I should mention one particularly because it had to do with the capital programs construction processes. When those thanks were conveyed, the thanks went on also to Malcolm and his Office of Security because as you know they coordinate with Capital Programs in crucial end-construction activity relative to placement of cameras and other security systems, which they interact with Capital Programs on so the thanks seems to occur all the time from courts and many outlying areas go to Malcolm and his crew for providing security.

One last thing: the Deukmejian Courthouse in Long Beach, which I visited in June in construction (it was about three quarters complete), was just a really immaculate worksite. Everything was being done the way one—even a layperson such as myself—can appreciate as being done well. At the time they had an extraordinary safety record. I called this morning. Clifford Hamm was kind enough to—being the project manager for AOC—to get back to me. At the end of the project, it now being opened, 1.6 million labor hours was expended in the

construction of that courthouse. No injury resulted that lost any work time whatsoever. I thought you might be interested in that very, very fine record. Thank you, Chief.

Thank you, Judge Jahr.

We are at the point in the agenda where we have set aside time for public comment. Let me first indicate we have I believe approximately six requests for public comment at today's meeting but only one for the general administration of justice and approximately four to five for item J. And I'm going to call, is Mr. Eric Christan present to give comment? Mr.Christan? Mr.Christan is not present so we will reserve the other five public comments when we get to item J. So I ask you to turn your attention to item L, which is Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts. This is an action item.

Good morning, Chief, rather than good afternoon. This is item L on your discussion agenda. Before get into the substance of this report I like to take a few moments to review how far we have come in such a few short years. Our Chief Justice took office in the beginning of 2011. We were in the third year of significant budget cuts, and a few weeks into office she was confronted by a very difficult review of our technology project that began interestingly enough when she was still a superior court judge. Naturally, both the Judicial Council and the AOC were subject to a great deal of examination during that time period. I mentioned earlier, though, that the Chief as we all know has been committed to constant reassessment in the deliberative process. She immediately appointed a committee of judges and others to the Strategic Evaluation Committee to study the issues and make recommendations. A year after their appointment, the Evaluation Committee, chaired ably by Judge Wachob, came back with 145 recommendations. The Judicial Council reviewed, approved, and directed the AOC to not only adopt but institute those recommendations.

As I mentioned earlier in my report, the Executive and Planning Committee was delegated with the task of making sure these recommendations were carried out. One of the principal recommendations dealt not with the AOC, but with the Judicial Council—with its need to take an active role in overseeing and monitoring ourselves and the AOC to ensure transparency, accountability, and efficiency. As part of that responsibility, E&P committed to review the authority delegated to the Administrative Director since the beginning of our unified court system in 1998 and provided its recommendation on those that should as you know in the report either be continued, modified, or terminated in addition to identifying those that have ceased to have been affect. This report that you have in your material does that. I would be remiss if I didn't thank Chief of Staff Jody Patel, Chief Counsel Debbie Brown, Nancy Spero, and Nancy

Carlisle, and all of their staffs for the tremendous, and I can't even probably add high enough for all of the hours that they have committed to this so again I want to thank them for all of their support that they have provided us and in reality for their dedication over this last number of months in making this a reality. I would also like to acknowledge the terrific support and understanding we have received from the Administrative Director, Judge Steve Jahr. I know Steve understands the delicate task we were faced with. Before he became our Director, he was a trial court judge, a presiding judge, a council member, and one of the early pioneers of our unified court system, and as a result of our many discussions over this process, I know he understands the need for and is committed to Judicial Council governance. He understands transparency, flexibility, and efficiency and again he understands the need for accountability by the council and its staff agency that he oversees, the AOC. With that background and introduction, let me get into the report. Please don't hesitate at any time to ask me questions. I'm kind of glad that Ira Kaufman is not here because I know that he would want to needle me. And I hope he's listening.

Our recommendations for the 100 delegations that we reviewed are presented in the attachment to the report and they are divided into five categories, first those where we don't believe any action is necessary— those are items that have been completed, superseded, or expired; two, recommendations for those that should be terminated; three, recommendations for those that should be maintained without any changes; fourth, recommendations to be maintained with some modification; and, lastly, the category where we recommend that they be modified. Our recommendations as you can see in the report are summarized in seven different actions and here they are. Number one, allow to lapse without further action the 33 delegations that E&P has determined to be obsolete because responsibilities have been completed, superseded, or expired. Two, terminate without further action the 21 delegations E&P has determined are no longer relevant to achieving the outcomes or council directives for which they were intended. Three, continue the 26 delegations recommended to be maintained without changes. Four, modify the 20 recommendations recommended for minor or substantive modifications. Five, refer the 2 delegations referencing the 100,000 litigation settlement authorization levels that are recommended for review to the Litigation Management Committee for the committee's consideration, those are numbers 82 and 85—82 and 83, thank you. Six, refer the 7 delegations recommended for modification that require related changes in the corresponding California Rules of Court to the council's Rules and Projects Committee to oversee the rulemaking process for further recommendations on rule amendments, numbers 86, 87, 88, 92, 93, 97, and 98 and 99. Number seven, direct the Administrative Director of the Courts to maintain an ongoing central list of active delegations. In the interest of time I will resist going through the entire report because it would take about 18 months but will highlight examples of our recommendations.

For the delegations that E&P recommends termination, some of been superseded by new responsibilities or council directives. Some duplicate authorities that are already stated in the California Rules of Court. Some no longer have a purpose relevant to AOC operations. For

example, we recommend eliminating delegations that allow the Administrative Director's authority over certain budget-related decisions in instances where the delegations were superseded by later council actions or they simply no longer apply to current circumstances. For the delegations E&P recommends modifying, E&P found some to be worthy of more oversight and monitoring by the Judicial Council or some consultation within an advisory committee. Some needed to be brought up to date with the changes that have been made in the council's organization of its advisory committees and other developments. For instance, on delegation 94 we recommend formalizing the necessary consultation with the Court Facilities Advisory Committee to ensure coordination and accountability for decisions taken to implement site selection and acquisition for all construction projects. Finally, the delegations that E&P recommends maintaining in many cases relate to business routines important to branch operations or direct services in supporting the trial courts and that help provide consistency throughout the state. As an example, delegation 59 gives the Director the authority to work in collaboration with providing judges and court executives to prepare, maintain, update, and distribute the *Trial Courts Records Manual*, which provides standards and guidelines for creation, maintenance, and retention of superior court records. This service provides support to the courts and provides consistency in record keeping.

[Captioners Transitioning] This was a long process, an important process, a significant process, and the continual evaluation that we have started from three years ago in performing our Judicial Council oversight and accountability, and I am proud of the work that has been accomplished by Executive and Planning. I am very, very proud of all the time and effort of staff. I can't tell you how many times we met, how many times we had further requests for them to do something else, to look at something else. This involved an incredible amount of research just to find some of them and then to look at what had transpired in 14 years to determine whether or not they should be maintained or terminated. Again, it is very significant and important in our role as Judicial Council members to perform our oversight in the role as Judicial Council members for the branch and public. It is something, quite frankly, I am proud of what E&P has accomplished and what all of us have accomplished. I am open to any questions. I have Jody Patel here and Nancy Carlisle, who were instrumental in all this. Between the three of us, I think we can hopefully answer your questions. I'm not telling you *not* to ask questions but I think the report is very thorough in the process we went through.

Judge Rosenberg?

I would like to, first of all, commend the Chief for launching the process and Justice Miller for overseeing it. He is a very detail-oriented individual and I know this was a lengthy and difficult

process to get our arms around—all of these ancient delegations—but it is remarkable that this has not been done at an earlier stage.

I agree with the recommendations. I have one question. In your first category, you have indicated you want to allow to lapse without further action 33 delegations. I frankly would rather see category 1 and 2 combined. Rather than allowing them to lapse, I would terminate. It is a more forceful, definitive result, so instead of having 33 allowing to lapse and 21 being terminated, I would recommend we change this to 54 being terminated.

That's fine with us.

So, this is a substitute amendment.

If this is a motion, I would move an amendment to combine categories 1 and 2 and as to those 54 delegations, the council would terminate them.

I see Judge Wachob second. Or do you wish to comment.

I just wanted to comment but I didn't know it was going to get to a motion that fast. Can I throw in a comment?

Of course you may. Of course. This is just the amendment on the floor. Feel free, please.

I think from an FCC perspective, this is fabulous—this type of review. If you take a step back and look at what is happening yesterday and today here with the review of CFCC and again with the delegations today, it is easy to focus on one agenda at a time, but if you look at the whole picture, the mantra of the SEC was transparency, accountability, and efficiency. We are seeing those components of the evaluation of the Administrative Office of the Courts and Judicial Council and the branch as a whole coming together with these pieces. I think it is exciting and I am encouraged.

Thank you, Judge Wachob. That means a great deal coming from the chair of the SEC.

It is a cool thing.

[laughter] I had an idea that it would be at the end but I had doubts in between.

[laughter] We debated if we should use the word “groovy” in our report, but hey, *cool* is okay.

Judge McCabe?

Thank you, Chief. First, I’m going to second the motion—it’s a motion as amended

It is a motion to amend.

1 and 2 only.

And then, two, I had the same observation as our SEC chair. It was a process. We thought it was due time. I will note in some of my travels, in talking to Judge Jahr’s counterparts from a number of other states that they are both awed and frightened by the prospect of what our Chief singularly in the United States has done. They marvel at what we have done great they think they need to do it, but they can’t bring themselves to do this. So, and I hope this comes off as complimentary because I have a bad way of saying things sometimes, but Chief, this is truly extraordinary, it’s unique, it is unparalleled anywhere in any state in the United States.

So we are very proud of what is been done. The SEC members who are on the council have spoken both in meeting settings and privately, and we are very pleased with the process. We still think that the AOC is overly optimistic in its timetable, but we cheer you for the collegiate try of wanting to get it done sooner than later, but please take your time to do things right the first time instead of rushing things.

And so I proudly second this motion.

Thank you, Judge McCabe. I've said it before, but it always bears absolutely repeating regularly—none of this could have happened without the 55 weeks of volunteerism that the SEC members put in without staff, and in such a collaborative way—to hear from everyone. This report—it was an important, brilliant, necessarily brutal, for us to look at ourselves in this way.

Thank you. Angela Davis?

Of course I agree with all of the positive comments that have already been made this morning. I also think that the chart of the 100 itemized delegations and when they were issued in the context and what is going to be done with them now has relevance way beyond the motion that's on the table today and even way beyond the SEC report. I don't think it is an exaggeration to say that there is 15 years of institutional knowledge that are synthesized beautifully in that chart. If I were a new council member coming today, I would love to have that just to refer to it and have this institutional knowledge that I wouldn't otherwise have, and I would encourage the council—particularly people who are in charge of orientation for new council members—to hang onto that chart and make it available to people coming onto the council.

Thank you, Angela Davis. As some of you know, that is the work again of our incredibly hard-working gifted AOC staff members. Commissioner Alexander?

Mine isn't directly related to Judge Rosenberg's comment, but I just noticed a couple of things. In item 6, it refers to the things that are referred to RUPRO. And I believe number 85 says Refer to RUPRO and it is not on the list.

The other question I have was with regard to number 95. The proposed change is Add a provision to specify how and when the ADOC will provide reports. Do we want to leave it that vague or set a timeframe because the others ones do say, like, annually or quarterly or something else?

We can add *annually* to that.

I just think it needs to be specific.

So two things. I think—Commissioner Alexander—you’re saying that number 85 needs to be referred to RUPRO—so that means that is separate and apart from Judge Rosenberg’s amendment.

You are asking to amend 6 and also number 95, as you’ve indicated, with an oral amendment to make that an annual report. For lack of a better place to go, I am thinking that would go to item number 7?

Could I get a clarification?

Yes.

This is Rosenberg. Is there, then, a typo in number 6? It asks about seven delegations. Are there really eight delegations that are being referred to RUPRO?

Yes.

There actually eight.

There are two different substitute motions referring to items 1 through 7. I would like to take Judge Rosenberg’s motion first as seconded by Judge McCabe as indicated to essentially terminate 54 delegations, which would merge items 1 and 2. All in favor please say Aye. Any opposed?

The motion carries.

Then Commissioner Alexander's motion to amend numbers 6 and 7 of the recommendations making 6 eight delegations to RUPRO (that would include delegation number 85), and number 7—that number 95 have a timeframe to be annual. Is there a second?

Seconded by Jim Fox and also Judge Morrison. Any further discussion on that?

Not hearing any, all in favor please say Aye. Aye! That motion carries.

So, the recommendations have been amended, and they are still open for discussion on any or all of those, including a motion to accept and pass these recommendations as amended.

I'm not sure we actually need a motion because it's a—is this the report of the committee? The E&P? So that's on the floor. We can just vote on their report.

So, the recommendation is that E&P recommends the Judicial Council approve the recommendations in attachment number 1, that have more specifically items 1 through 7 as amended and so—

Formalistically, Chief—just so the record is clear—Judge McCabe speaking—I'll move to adopt—that the Council adopt the E&P's recommendation.

Seconded by Mark Robinson and seconded by Judge O'Malley.

All in favor?

Aye!

Any opposed? Matter carries. Thank you. [Applause]

We are ahead of time here.

What I'm going to do is—first I am going to take the consent agenda. We will take a break and during the break I asked the new members to gather at the front of the room between the flags to take our oath picture. And then we will come back to reconvene to hear item J if all parties are present.

That wasn't my fault.

[laughter] Could we take a second to raise our hands in honor of Judge Rubin?

[laughter] [indiscernible - multiple speakers] That was Judge Rubin, everybody.

So on our consent agenda—as you know, the Executive and Planning Committee places items on the consent agenda when they consider council meeting time and also to ensure that the work of the council and its advisory committees can be as effective and efficient as possible in setting policy and implementing solutions to the issues facing our courts and the branch. And item placed on the consent agenda in no way reflects the significance of the proposal. Prior to the meeting, any council member may request that any item on the consent agenda be moved to the discussion agenda or be moved to another day for the discussion agenda for further reporting. Today we have, I believe, as you can see, 40 items on today's consent agenda. And it ranges from what Justice Hull had indicated in his report from RUPRO, rules and forms for alternate dispute resolution, appellate procedure, civil small claims, criminal justice, family and juvenile law, judicial administration and probate and mental health to subordinate judicial officer conversions and various reports to the Legislature. As you know—but it is worth repeating—these proposals come to council for decisionmaking on policy level by our advisory committees. They come to us already publicly vetted in terms of proposals that affect statewide policy, already subject to public comment. Again, consent agenda items can be moved and people can speak to those at our public comment time. Again, this reflects the work of all of our volunteers who are ably assisted by the Administrative Office of the Courts. This is the core of what the Judicial Council does in terms of statewide policymaking and the administration of justice. So we thank all the committee members and staff—not just those named on the agenda—who spent many, many hours working on the reports and recommendations. We appreciate their efforts in improving the administration of justice in California. Because it is on the consent agenda, it is deemed approved. Those items pass.

We are going to stand in recess and take a break for 15 min.—actually, I’m going to make it 20 so we can assemble the new members to take a photograph. So we will reassemble at 10:35.
Thank you.

Thank you for the extra break.

[This event is taking a break and will reconvene at 10:35 AM Pacific Time. Captioner standing by]

The meeting is now back in session and we will continue our discussion agenda with item J, California’s Language Access Plan status report. Before I call the presenters to be seated to present that, we have a number of speakers on this agenda item, I believe five, and I turn it over to Justice Miller.

Thank you, Chief.

This is items J and we have five speakers. Each have been allotted four minutes. And our first is Anabela Guerreiro, the California Federation of Interpreters, staff representative.

As you approach the podium, I will give each of you a warning when one minute is left, then 30 seconds. Thank you, and welcome.

Good morning, Chief Justice and members of the council. I am actually going to have to yield my time to Ignacio Hernandez, our CFI legislative advocate.

Alright, but he still just has four minutes. You don’t want to take your time?

Alright. Thank you.

Then we’ll call Ignacio Hernandez, the California Federation of Interpreters.

Good morning, members of council. I’m Ignacio Hernandez and I have appeared a number of times in front of the council. I am the legislative advocate for the California Federation of

Interpreters. I want to address a couple of things—one is obviously the proposed language access plan, or the update, but also an item that was included—I believe it was the Executive and Planning Committee—regarding a bill that we sponsored. I think there is some clarification that needs to be made. I will try to dovetail the comments into one. Maybe I get a little bit more than 4 since we have a couple of folks that didn't show up.

Number one, let me address that the council is still sitting on about \$14 million in carryover money in the state interpreter fund that has not been expended. We have asked for that money to be expended for civil interpreters—interpreters in civil cases. That has not happened. Generally, every year some money is expended out of that fund to increase language access. That has not happened this year. We want to see some action on that as quickly as possible, hopefully, the next council meeting.

We sponsored a bill to carry out a pilot project to expand some of this money for civil cases. That bill was vetoed. And let me clarify a couple of things.

Number one, we worked directly with Judicial Council staff to negotiate more than a half dozen amendments to that bill. We took each and every one of those amendments that were programmatic. Nonetheless, the Judicial Council did not support the bill and in fact expressed concerns to the Governor—and I will get to that in a second—which we believe contributed to the vetoing of that bill, a bill which would've provided increased language access beginning in January in at least three counties in California. So as we talk about the language access plan, we need to take about what actions have already been taken and how much further behind we are because of this bill being vetoed. One request from the Judicial Council which we did take was not to include the County of Los Angeles in the pilot project. We were told that there were individuals in L.A. (not named) who did not want to be part of the pilot project. As we know, L.A. county is the subject of litigation with U.S. DOJ on language access. To the extent that we do not want to include LA—it is problematic—it's something to be talk about when we talk about the plan.

There was one other issue that was raised that was not included in our bill and it has been the subject of a lot of conversation. It was the subject of what was expressed to the Governor as why the Judicial Council did not support our bill. And that was some fix to the Government Code section. Let me be very clear. That is not a prohibition on providing interpreters in civil cases. That's not just my opinion, it's the opinion of the AOC legal counsel—if you read the memo, it is very clear. It is not a prohibition.

Number 2—on the Government Code section—I personally thought out and secured legislators to author a bill to fix that Government Code section. I personally lobbied Democratic leadership to get a standalone bill at the end of session to fix that Government Code section. One of my biggest problems in getting that through and making it happen was that Judicial Council did not support getting that Government Code section fixed in the standalone bill. I want that very clear

for the record because it has been articulated that somehow CFI does not support that Government Code section fix and that we did nothing to help move that. We did. I did, and I encourage you to ask me questions, because you can ask me questions during this time. We will stand by and help with that fix in January. But we will not stand by and have our position misrepresented. We believe in language access. The interpreters are the linchpins to language access in your courts. We have been fighting for language access. We want you to be a partner, we we wanted you to support our bill. We did not want you to contribute to the veto, which by not supporting our bill and expressing concerns you did.

Because of that, individuals who are limited-English speakers are worse off than they would've been had our bill been signed.

One min. and I did extend you additional time.

I appreciate that.

Let me close out by saying—point out one other issue because I know it has been brought up. There are some individuals that have concerns that Government Code section 6 does not allow for interpreters in civil cases. It has never been brought up until this year. When the Judicial Council sponsored a pilot project bill a number of times, it was never brought up as a problem. The AOC legal memo—please look at it, review it—says it is not a prohibition. A better argument and more convincing argument is that interpreters can be provided especially to the indigent. Let's follow through on that now.

Lastly, the AOC legal memo does not even mention federal law. The US DOJ was very clear that title 6 requires interpreters in civil cases. Not mentioned. Do you need any other reason to support our pilot project than that? We stand here ready to be partners. We took all of the amendments that you wanted. There was a commitment made to us that CFI would be part of a working group to provide additional information to your ad hoc committee, your joint working group. That did not happen. We put it in our bill because we were willing to compromise on that.

It hasn't happened.

Not in the language access plan that's being provided today, being talked about today. So we want (1)—the carryover money to be spent immediately for interpreters in civil cases consistent with the pilot project, which you agreed to; and (2) to include CFI on an expert working group to provide advice to the joint working group and the ad hoc committee; and (3) to stand with us every time we stand up at the legislature for language access. We went it alone for your issue, and we were told no because you did not stand with us. Thank you.

Thank you. Alright, we'll next call Mariana Bension-Larkin, founding member, Association of Independent Judicial Interpreters of California.

Four minutes, and again I will give you a time estimate with 1 and 30 seconds left.

Thank you. Good morning, Chief Justice and members of the Council. Thank you for the opportunity to allow me and my colleagues here today to speak. My name is Mariana Bension-Larkin. I am Spanish court interpreter. I am state certified by Judicial Council of California, and I am federally certified by the Administrative Office of the US Courts. I am also a founding member of the Association of Independent Judicial Interpreters of California, which is a trade association started this year that represents other court interpreters, who like myself work as an independent contractors. We are not court employees. We're hired by private parties to interpret at various court proceedings, and a significant part of the work that we do is in civil litigation.

It is the DOJ's position that as recipients of federal aid, the California courts must provide interpreters for limited-English-proficient individuals in order to fully comply with Title VI of the Civil Rights Acts of 1964 and that this access must include all court proceedings.

This is a powerful statement and one that prompts many questions. The courts appropriately provide free interpreter services for criminal proceedings, just like they provide a court-appointed attorney to defend anybody who is accused of a crime if he or she cannot afford one.

Additionally, the courts also provide interpreters at no cost for certain family matters, such as domestic violence. Also, low-income parties can request a fee waiver for interpreters if they meet certain requirements. As a society, we help the most vulnerable ones who cannot help themselves, and that is a concept that we all embrace. However, one of the questions is, what about those limited-English-proficient individuals who are able to afford the services of an interpreter? Should California also provide them with an interpreter for free? What about civil litigation? Should parties who have retained attorneys even if it's on a contingency basis also be provided interpreters at no cost? The courts don't provide free attorneys for people who decide to file a lawsuit. The courts don't provide free court reporters for civil proceedings either. So why free interpreters if the parties can afford it. The DOJ fails to take these issues into consideration and the financial impact that it could have on hundreds of us who could not or would not or chose not to become court employees.

We are aware that establishing clear guidelines on when to provide interpreters services for civil proceedings is very complex. We also believe that the Interpreter Services Fund should not have to fund the services of interpreters in the civil arena when the parties can afford it. The State of California is in a serious budget crisis right now.

One min.

And independent interpreters—thank you—should not have—interpreters like myself and independent contractors—should not have to receive calls at the last minute from attorneys who are obviously not working for free telling us that our services won't be needed because the court has provided them with an interpreter at no cost, and this has actually happened very recently to one of our members. Imagine for one min. how litigant attorneys would react if all of a sudden the courts announced that a plan to provide free litigators in the name of equal access to the courts is being explored.

Hopefully, the advisory committees and the Judicial Council will take our concerns into consideration and that some exclusions will be considered. Also, it is our hope that the Judicial Council considers the voice of independent interpreters in this matter. We will be addressing the DOJ also on our concerns.

Thank you so much.

Thank you.

Next is Alejandro Avella, certified court interpreter, past president of CFI, Superior Court of Los Angeles County. Again 4 minutes and I will give you warnings at 1 minute and 30 seconds.

Good morning, Chief Justice and members of the council. My name is Alejandro "Alex" Avella. I come here as a past president of the California Federation of Interpreters as well as a professional interpreter and translator with more than 25 years' experience in California state court and the federal courts.

I am speaking on my own behalf and on behalf of CFI, the recognized representative for more than 900 registered interpreters of more than 50 languages now working in the California courts.

I wish to commend the joint group for promoting greater language access for the millions of Californians hampered in their access to justice. Expansion of interpreter services is long overdue. As you are all well aware, the current situation is so dire that the US Justice Department has seen fit to investigate the Los Angeles Superior Court and the California Judicial Council for policies, procedures, and practices that appear to be inconsistent with Title VI of the Civil Rights Act of 1964.

But I do wish to sound a note of caution about the remedy being proposed to ameliorate this situation. I am referring specifically to video remote interpreting, which some are touting as a necessary and integral part of the solution. With all due respect, VRI as presently contemplated to substitute on-sight interpreters in court proceedings is misguided and inefficient and threatens the right to an interpreter enshrined in the California Constitution.

As contemplated, video remote interpreting denies the defendant the right to their own personal interpreter, making the privacy that is essential for attorney-client communications next to impossible.

VRI is an unproven and poorly adapted replacement for the best language access aid now available—a real-life interpreter in the courtroom. Nonetheless, if appropriately deployed to ensure access, interpreters would not oppose the use of VRI for one-on-one interviews with attorneys or probation officers and other out-of-court communications. Done right, we actually welcome it as another implement in our professional toolkit.

But as currently proposed for in-court proceedings, VRI threatens to be another expensive experiment in courtroom electronics at the expense of taxpayer and linguistic minorities. You can do better than that.

Rather than redirect precious interpreter-budget resources to glittering tech fixes, look to the workforce at your disposal, both employees and contractors. Of that employee workforce, more than 500 of them in Los Angeles and the Bay Area are now working under expired contracts, have not had any COLAs for nearly 7 years, and have no way steps like other employees. These dedicated language experts have been subjected to disparate treatment in the court system for years. Separate and unequal. This must end.

I invite you to work with CFI in crafting a solution. Thank you very much.

Thank you very much.

Next is Daniel Navarro, certified court interpreter, Superior Court of San Francisco County. Thank you and welcome, and same time limitations.

Thank you. Good morning, Chief Justice and council members, one moment. My name is Daniel Navarro. I've been a court interpreter since 2001. I am a former member of CIAP, the interpreter advisory panel of this body. California's trial courts have pioneered language access and built a workforce of skilled interpreters who provide personal, flexible, and cost-effective access.

The attention our Chief Justice brings to access is encouraging. I caught Your Honor's TV interview on Sunday and I was glad to hear the court express concerns over the pa- for-play system that results from shrinking access.

I ask the council members to bear in mind Your Honor's stated concern when considering a language access plan and in particular video remote interpreting.

I oppose video remote interpreting for front-line service delivery in and around the courtroom because it will degrade access and compromise interpreter performance. Rigorous testing has not been done. Read the *Harvard Law Review* an article—I am happy to forward it. It addresses video-mediated communications and its impacts on due process and case outcomes.

Rating interpreter resources to beta test an unproven and ill-suited technology cannot be justified, linguistically or fiscally. Yet, AOC negotiator Joe Wiley holds up VRI as a hill to die on. Why? It is a solution in search of a problem.

Focus, instead, on tapping our expertise efficiently and on-site. Streamline coordination to make us available for ancillary services. Analyze the unmet need in civil and what it will require using on-site interpreters. Let us train bilingual staff. Create interpreter, translator, and management positions. Because without a job pipeline, language access simply will not float.

Interpreters are mobilized. This past Wednesday, we were leafletting our courthouses and the lawyers and judges that we know and work with grasped quickly that VRI is a pennywise approach to language access. They cite its impracticalities and threats to service quality. They tell us loud and clear, It won't work!

Interpreters are here, and I close by acknowledging my colleagues here today and our shared commitment to this challenging profession and our enduring will to serve the needs, the language needs of the public when going before the states courts.

Thank you.

Thank you. Chief, that concludes the public a comment for item J, and again I would just like to personally thank all those who appeared and took the time and effort to travel here. As a Judicial Council member—and I know I speak for other council members—we appreciate the information you give us because it is invaluable in allowing us to look at the issues. So, thank you. This concludes public comment.

Thank you, Justice Miller, I concur in your comments thanking everyone here.

This is item J and I ask the presenters to please take their seats at the presentation table.

Welcome, Assistant Presiding Judge Steve Austin, chair of the Court Interpreters Advisory Panel, and Justice Maria P. Rivera, former chair, Access and Fairness Advisory Committee. I would also like the technical person to also introduce yourself please.

Thank you, Chief. I am Douglas Denton with the Court Language Access Support Program.

Thank you, Douglas.

Buenos dias. I am delighted to be here speaking to you today, Chief, Justice Baxter, Judge Jahr, and all the members of the Judicial Council and the staff, and everyone who is present in the chamber.

I am here and I'm excited and delighted to have a chance to tell you about our work on the very critical issue of language access, which is also, I am *very* pleased to say, an important piece of the Chief's vision for Access 3-D in the courts.

The presentation is designed to be brief. We're hopefully going to be speaking for less than 20 min. There is a lot more detail in the report that has been given to you.

I will begin with an overview of the size and characteristics of California's LEP population, and then Judge Austin will cover a number of topics including describing the events that have propelled us forward at this time to develop a language access plan including a discussion of the Department of Justice letter.

We will also describe California's leadership in interpreter services and training and also the structure and role of the Court Interpreter Advisory Panel in developing our plan. We will then together review the steps, timeline, and inclusive process that the joint working group will undertake. We have left 10 min. at the end for your comments and questions and suggestions.

So to begin, I will ask what I think for all of you is probably a rhetorical question—Do we really need to improve our language access in the courts?

I first want to recognize that the AOC and especially the Center for Families, Children & the Courts and many of our courts across the state have worked very, very hard to provide a wide array of solutions for overcoming language barriers that are not required by law because the branch has always been concerned about equal access.

The recent report commissioned by the Judicial Council on enhancing language access services gives you an overview of many of the things happening in our courts that are really heroic efforts undertaken by these courts in times of such limited resources.

Despite all of these efforts, there are nowhere near enough interpreters or bilingual employees or resources or funding to provide language assistance to everyone who needs it.

I would like to pause here—excuse me—the numbers tell you why. As of 2010, approximately 40% of California’s population speaks a language other than English in the home. That includes over 200 languages and dialects.

According to the U.S. Census, almost 20% of Californians do not speak English very well. They speak English less than very well.

In my experience, when people appear in court who speak English very well, they still have a hard time making themselves understood and understanding what the judges is telling them. That is, of course, because our proceedings are held and discussed in a lot of legal and technical jargon. So, speaking English less than very well, that is going to handicap the litigants even further and can effectively exclude them from meaningful participation in court proceedings.

Let me read to you from the excellent report—I think all of you are aware of it—it was issued by the Commission on Access to Justice in 2005 relating to the language barriers in the California courts.

The starkest consequence of linguistic barriers to the courts is simply that justice is unavailable. The very people who are arguably the most in need of help from the courts are unable to obtain that protection. In routine civil proceedings such as evictions, repossessions, creditor/debtor cases, wage garnishments, and family law matters, they cannot effectively defend themselves or assert their legal rights. And the court system itself can appear unfair and unbalanced when, because of inability to comprehend the process, defendants with limited English proficiency cannot meaningfully participate in court proceedings, and thereby lose rights, property, livelihood, or shelter.

So in answer to my rhetorical question, Yes, we *absolutely* need to improve and expand language access in our courts, if we mean what we say about equal access to justice.

To do that, we need a plan, and that is why we are here today. Quickly, a few more numbers—as I’ve already said, 19.8 % of the population of California speaks English less than very well. And the graphic also shows you that the majority of limited English proficiency or LEP persons in California are Spanish-language speakers followed by speakers of the many Asian-Pacific Islander languages represented in this state. Your attachment A to the report given to you, which we will refer to a number of times so you might want to get it, gives you a lot more data about the most frequently spoken non-English languages and the LEP population in each of

California's 58 counties. You will note, for example, that in Los Angeles County more than 1/4 of the population has limited English proficiency, and that is a tremendous challenge.

Speaking of numbers, we, the group, recognize how important it is to have accurate data so we can assess and understand language access needs. So, for starters the group will be looking at all of the available data—there is actually quite a bit out there at this time—to make a best estimate of the scope and nature of the language access needs, and while we're doing that we will be also looking at improvements in data collection and other tools for early and effective identification of language needs.

Finally, before I turn this over to Judge Austin, I would like to remind all of us that language access is front and center in our strategic plan. In goals 1—which addresses access, fairness, and diversity—we set these objectives: that all persons will have equal access to the courts and court proceedings and programs, that court procedures will be fair and understandable to court users, and that members of the judicial branch community will strive to understand and be responsive to the needs of court users from diverse cultural backgrounds. This is our commitment to the community.

Judge Austin—

Good morning. California is unusual because of its large geographic size. Nearly 164,000 square miles. Because of its large LEP population, the state is divided into 4 distinct collective bargaining regions for court interpreters. For this reason, language access practices and labor agreements may differ from region to region or from county to county. In attachment A you will find a map showing California's 58 counties grouped into their 4 collective bargaining regions.

In our overall efforts to enhance language access in California courts, however, we will be looking for solutions that promote a consistent statewide approach, including quality of interpretation, efficiencies and cost savings, and improved language access for all of California's LEP court users while respecting the provisions of the negotiated memorandum of understanding in the regions.

California has approximately 1,800 certified registered interpreters, significantly more than any other state. Ah, 1,333 are Spanish-speaking interpreters. From the *2010 Language Need and Interpreter Use* study, which covered the years 2004 to 2008, we know that the California courts provided more than 1 million days of spoken-language interpreter services with 147 different languages reported in the court data for the study period. Available court interpreter employees are cross-assigned or shared between counties in roughly 50 different languages.

California is also known for its professional standards and ethics manual and continuing education program, which have been models for other states around the country. California has

developed model guidelines for the appropriate use of video remote interpreting (VRI) for ASL-interpreted events (American Sign Language–interpreted events)—and was also the first state in the country to require that new interpreters take an online orientation course. The online course was developed by bench officers and seasoned court interpreters and is available on the California Courts web page as a free service to anyone who is interested in learning more about California courts and the work of our court interpreters.

While California continues to be a recognized leader in the provision of language access services, more can be done on a statewide level. The magnitude of the need for interpreter services in California is not the only impetus behind the current effort to create a comprehensive language access plan. For example, in 2010 the US Department of Justice issued a letter clarifying the requirements that courts receiving federal financial assistance must provide meaningful access to LEP persons in order to comply with federal law and urging them to act on an institutional level to provide a more robust array of services.

The DOJ has been working with local jurisdictions and individuals to review their rules and practices and encourage full and meaningful language access consistent with the DOJ’s guidance under title VI of the Civil Rights Act of 1964. Most recently, the US DOJ civil rights division issued a letter on May 22, 2013, regarding its review of language assistance services provided in the LA Superior Court of California and its review of Judicial Council policies and directives. It is the opinion of DOJ that several current policies, practices, and procedures of the Los Angeles Superior Court and the AOC and Judicial Council appear to be inconsistent with Title VI and DOJ’s implementing regulations. The letter included several recommendations that the Department of Justice believes would help California expand services towards full and more meaningful language access for LEP court users.

Two more examples of why now: In October of 2012 I was honored to be a part of a delegation from California. I joined nearly 300 judicial leaders from 49 states, three territories, and the District of Columbia to gather in Houston, Texas, for the first National Summit on Language Access in the Courts. The court and community leaders at the summit demonstrated a strong commitment to providing language access services as a fundamental principle of law, fairness, and access to justice.

This year the National Center for State Courts released a summary report—a national call to action regarding the summit. The report is attached to the council report at attachment D. It provides a series of suggested action steps that states can use as a guide to implement or improve their individual language access programs.

Additionally, in February 2012 the ABA adopted a set of standards for language access in the courts. There has been a lot happening recently across the country and this state—all pushing toward improved language access starting with a statewide plan. Our efforts could not be more timely.

Our very own CIAP will play an important role in developing the plan. Let me briefly recap the structure of that group. The Court Interpreters Advisory Panel membership is primarily composed of certified and registered interpreters and includes judges and court administrators. Unlike other advisory committees, it was created by statute and is statutorily required to have a majority of its members as court interpreters. Pursuant to rule of court 10.51, the panel consists of 11 members—4 certified or registered interpreters working in the trial courts, 1 from each of the states four bargaining regions;, 2 other-than-Spanish interpreters working as independent contractors in trial courts or in an educational institution; 1 appellate court justice; 2 trial judges; and 2 court administrators, including at least one CEO. To give greater support and attention to language access efforts, the California Court Interpreters Program, housed at the AOC, has been reorganized into what is now called the Court Language Access Support Program, or CLASP. This change reflects the breadth and importance of language access for the courts and will more effectively realign resources. The program will continue its role regarding interpreter services and will also focus on expanding language access services statewide. The unit’s manager will serve as the language access coordinator for the judicial branch and will be a central point of coordination and communication regarding language access issues and interface with external stakeholders.

Ms. Rivera?

So, where are we in the process? The development of a comprehensive statewide language access plan was a key objective of the 2013 agenda of the Court Interpreters Advisory Panel. Working in collaboration with the Access and Fairness Advisory Committee, and thanks to the energy and efforts of Judge Austin, a joint working group for California’s language access plan was finally formed in June. I am the cochair of that group, and the other cochair is Judge Manuel Covarrubias, who is in Ventura County. As you know, Judge Covarrubias and the entire Ventura court have been *very* progressive developers of many different creative language-barrier solutions.

I want to refer again to the Hastings report—there is so much in there of all the things that have been developed, particularly in Ventura and Fresno and Kern and Imperial and Alameda Counties. They are going to provide a lot of models for us to be looking at.

The group itself is diverse. It has judicial officers, court staff, and court and court interpreter representatives, and in order to enhance our efforts and expertise, we have invited all the members of the Court Interpreters Advisory Panel to join the group. We hope to produce a thoughtful and practical language access plan that is not only comprehensive, but provides flexible guidance and direction for all 58 trial courts ranging from Alpine County that has 25

limited English proficiency persons in its entire population and Los Angeles that has 2.5 million LEP.

We have done some work already. We are working on an outline,—the outline with the assistance of our *very* skilled consultant who is Cristina Llop, herself a certified interpreter. We have identified a number of subject areas and let me briefly discuss what some of them are. This is not a comprehensive list, but these are really the highlights.

We are going to be looking at guidelines, standards, and protocols for all providers of language access. This will include, for example, volunteers and bilingual employees. We need to have standards that—so we can ensure effective and correct and accurate language assistance.

We will be analyzing the existing data on language needs and as you know you are now in the process of putting together the next five-year report on language needs. We'll be drawing from the work being done on that. We will also be looking at other ways to collect data, from the courts themselves and from community organizations, to develop ways to collect the data in an early and accurate way.

At the heart of the plan is expanding court-provided interpreter services to all matters in the courts. But, we are going to need to prioritize that because we are going to have to do a phased-in plan, and Judge Austin is going to discuss ideas about how that might happen. We will need to address bilingual and interpretive services, signage, and translated documents in ancillary court programs and also at all points of public contact.

We would be looking at efficiencies that can be achieved through technology, scheduling, and calendar practices. This will include a very thoughtful and collaborative study of the effectiveness and the limitations of video remote interpreting.

We will look at models for recruiting and qualifying statewide language service providers to meet court users' language needs, and we are certainly going to have to figure out a way to recruit and train and qualify more certified interpreters to meet these needs. There are some models out there that are really interesting. I don't know if you know about the Laney College program that has a court language interpreting course that is being given, and we're hoping to spread that out across the state.

We will look at the areas where we need training for the judicial branch, and that is everybody in the judicial branch—judges, administration, staff, and how we need to not only understand the needs of language access, but also cultural competency.

We need to figure out a statewide complaint process because we have to be able to identify and remedy language access problems as they arise and to prevent them from happening in other places.

We will then also need to look at how, going forward, we are going to have ongoing language access management and continual evaluation of how these programs are going and how well they are working and how we should adjust them: the feedback loop.

Finally, of course, the hard part—identifying what resources and funding needs will be necessary to implement the language access plan itself.

As Judge Austin said, broad stakeholder participation and comment is going to be central to the development of this language access plan. We are planning to conduct public hearings in early next year. We will, of course, be soliciting public comment on the draft plan. As for timing, we hope—this is kind of a tight timeline—but we are hoping to come back to the Judicial Council with a draft plan next June, and then after getting all of the public comment and feedback and making those adjustments, we hope to have a final plan to you in December of 2014. We also expect to bring you proposed amendments to rules and statutes that will be necessitated for implementation of the plan.

We will be, of course, providing progress reports and milestones and we will be monitored by you, the Judicial Council, the language access coordinator, and of course any other advisory groups that you choose to have monitor us.

So, Judge Austin, talk about a little bit about the gradual expansion.

I wanted to kind of go off my prepared remarks. We just had our first conference call meeting of the group actually to get things together for our next step, which is the meeting in November. It was so exciting. The people on the telephone call were so excited to be a part of this process that will be able to broaden and include so many other people in our justice system. The thought of what could come out of this at some point in time is something that made all of us feel how important what we were doing is, and we are really looking forward to the process.

That process, almost certainly, will involve a gradual expansion of language access services and a phased-in approach that is guided and informed by stakeholder input. For example, court interpreters currently are provided for LEP defendants in criminal proceedings—witnesses, civil and criminal; parties who are deaf or hard of hearing; and in a few civil proceedings. The plan might recommend an incremental expansion—first, say, into priority civil cases such as family law and unlawful detainers, then a gradual extension of services to all civil cases over the next five years.

This phasing will be naturally metered but available personnel and resources. Obviously, we are going to need a lot more interpreters and bilingual employees and funding to pay them. The courts are also carefully beginning to use appropriate technological solutions.

California's successful pilot that has utilized VRI for ASL-interpreted events has demonstrated that significant cost savings can be realized through the more efficient use of existing resources and use of technology. We believe that more than \$1 million statewide could be saved just from the use of VRI in ASL cases—so the potential cost savings overall could be significant.

We will also be looking at ways to expand language services throughout the courthouse, like in self-help centers and online, with websites and web-based tools in the most commonly used languages.

To ensure that we anticipate and address the most pressing LEP needs, robust public comment from all interested stakeholders is anticipated and welcome to assist the members of the joint working group in their efforts to develop a comprehensive language access plan for California.

Ms. Rivera?

In closing, I'm going to go off script for a minute also. I want to say two things—first, I couldn't agree more with Judge Austin's remark. The first meeting we had was very exciting. People were very engaged in the process and everyone at the group brings a whole lot of expertise and information to the table. I am learning a lot and I think we are all learning a lot and I want to also mention that I was able recently to read the CFI position paper on VRI. I found it very interesting, and I am looking forward to reading the article that is cited in there—the [indiscernible] article—because I think it is going to be *very* informative to us as we look at all of the benefits and limitations of VRI—where it's going to work best and where it's not going to work. I am very anxious to be involved in learning way more about that process.

In closing, let me just say this: I've been in the judicial branch now for about 16 years. The judicial branch is constantly striving to improve access to justice for all Californians. But, the time *really* has come for language access to be a major, major part of this effort.

As both Judge Austin and I have emphasized, public and stakeholder participation is going to be critical to the success of the plan and we will welcome it and look forward to it at every stage of the development of the plan. I want to thank you for listening to us. We talked rather over our time. I apologize. We are here to answer any questions or receive any comments or suggestions.

Thank you, Justice Rivera and Judge Austin. Judge Rosenberg has a question or comment.

Thank you very much. I have a substantive question and then a curiosity question. My substantive question is, In this process which we are launching, how are we intending to

collaborate with the California Federation of interpreters and the Association of Independent Interpreters of California?

The front-line way is that they have members on the committee. Members of CFI and members of the independent interpreters are a part CIAP, and CIAP is part of our working group. So we will have all of the expertise with us. We will also be formally doing public comment and putting the plan out for public comment and holding public hearings. So, anyone can come forward and present their views. And, I'm expecting that there will be some informal collaboration as well, but we are not far enough along in the process to figure out what that will look like, but I expect that will happen as well.

Here is my curiosity question. I am looking at attachment 1—the languages spoken in California—and in glancing at it I happened to notice that there is a category for Indo-European languages, and Hungarian is in Other languages. Is there something special about Hungarian that it is not considered an Indo-European language?

[laughter] You're way beyond my expertise.

[indiscernible - multiple speakers] As far as I understand, Hungarian is one-of-a-kind. It has no close linguistic equivalent to any other European language. As a matter-of-fact, its closest linguistic relative is Mongolian.

Got it.

[indiscernible] And you don't have Basque listed—that's another thing.

Commissioner Alexander?

I had a question with regard to the letter from the DOJ. They have 8 proposals about what they call steps toward voluntary compliance. You addressed having the statewide language access

coordinator. What is the plan with regard to the other proposals of implementing them during the course of this process as opposed to at the end of the process?

I think each of those recommendations are going to be integral to the process and the plan that we get to at the end. Already in the first call we discussed those. We are going to have to at times figure out how each one of them can be implemented or put into the plan itself or whether they are not practical for us. We are going to have to go through each one to figure it out. But, those recommendations are at the top of the list of things that we are going to have to deal with with the group.

I had a comment, and I want to say that the Conference of Chief Justices with the National Center for State Courts, this has been a very robust issue at all of the meetings I have attended. It is an ongoing discussion because all of the states are trying to find a way to meet the needs in its state for language access. Some states are much smaller. Some states are not necessarily as diverse as California. California is, as you can imagine and as you described here in the statistics, unique. I know that we face a number of issues in that plan. But, I am grateful to you for your approach for this to be thoughtful and deliberate. And knowing that given California's population and how meaningful this is that we do it right the first time or as close to right as we can get it given the important stakeholders and the issues for public access to the courts.

I know that we have had some suggestions and ideas about fixing this and I know there is a set sum of money and different ideas about how to spend this money to best provide language access, but I look at CIAP and Access and Fairness and this working group and your plan and I am gratified to know that it will be deliberate and thoughtful. Like much of what California does, especially with the assistance of the subject-matter experts and staff from the AOC, other states are looking to this is another model. So I am grateful for your work. I know it's not easy. We've had many discussions about how to approach this, and I am gratified to hear about your approach.

Judge McCabe?

[Captioners transitioning]

Thank you, Chief. In reviewing the attachment on national call to action by National Center for State Courts in conjunction with the State Justice Institute, step seven discusses utilizing remote interpreting technology, and it indicates 7 states have claimed successful use of VRI, seven were

interested in using, 15 were exploring, but it doesn't describe what states, how long, to what extent, how was it evaluated? None of the substantive information I would want to look at before delving in that are even covered. It is quite generic. Have you looked at any of those types of questions in evaluating the viability of VRI?

I know they have a great deal of backup material. When this summit occurred—this report came out of the summit—there were articles and demonstrations of the equipment. I know the National Center has different studies that they have relied on, and each of the individual courts, they're not just rolling these things out there either; they've done studies as well. So we are going to be compiling all of those things together when looking at their effectiveness and what types of proceedings it may be useful for and what types it is inappropriate for.

I wonder out loud, is the evaluation process typically subjective? Is it just looking at one side of the fence? Are they doing exit polls to talk to the consumers using these services to get a sense of whether or not it was helpful or did it impair their ability to understand the proceedings, etc., or are they simply relying on a court's analysis of *Oh, yah, that went well, it's done, out of here?* Those are the types of questions I would want to look at to do a full analysis of whether or not this is a viable use, not just one perspective coming from the bench.

Judge McCabe, I agree with you. I think for example, the ASL VRI was done based on a pilot so they did have the feedback loop. I know we were working in Access and Fairness on having people who are hard of hearing, people who are deaf, do the actual analysis. Is this working? Is this not working?

I apologize for cutting you off, but I have seen the ASL demonstration as well, but I will note there is an advantage. The advantage is that they are able to visually see and concentrate on the language without hearing impairment versus the other languages are happening at the same time you have got a judge or witness or somebody else talking so there are multiple sounds occurring which creates a greater complexity. I don't think it is a fair analysis to parallel ASL.

That's not what I meant. What I was meaning was the process. Not that ASL is equal to foreign language. It's not at all; it is completely different. What I mean is in evaluating the process, it would be folly to say we're going to send out video remote interpreting to 58 counties. Here is your TV, here are your microphones. Go for it. It would be a ridiculous waste of money and we

need to do this *very* incrementally and *very* thoughtfully with a lot of testing. We need to see what's the right kind of equipment. There are studies out there that we are going to benefit from. The one that was extensively cited in the CFI report, that has lots of information about what all the problems are, it makes a consecutive interpreting: background noise, body language, so many other things that need to be taken into account. So we are very well aware of that.

Okay, the last point I have—and not to tell you how to do your business but I'm really good at telling people how to do their business—and that is I would hope that there are some consistencies and continuity in the evaluation process and it is not disjointed, simply taken from parade variety of people who think they're all talking apples and apples when in fact they may be talking apples and oranges or their approach is different, so that is very important when you are taking a sampling of a population that you have continuity in order to derive a viable interpretation of the data, and that is going to require a little more work to get that continuity because either you have great training that everybody fully understands the criteria used, or you were using the same people traveling around doing that. I throw that out because I am concerned about having a disjointed process that doesn't give us that type of accurate information. I am confident you will do that.

We will definitely keep that in mind.

Thank you.

Thank you, Judge McCabe. We appreciate the presentation in the future presentations you'll bring to council . Thank you for your hard work.

Thank you.

We turn next to item K, that is Court Facilities: Budget Allocations for Statewide Trial Court Facility Modifications and Planning in Fiscal Year 13/14. This is an action item. Welcome Judge Power, the chair. Would you introduce—

Staff to the Trial Court Facility Modification Advisory Committee is Patrick McGrath, who will be presenting as well this morning. Good morning to the members of the Judicial Council. Thank you for allowing me to comment on item K, the 13/14 budget allocation for trial court facility modifications. On Sunday, October 13, 2013, the Chief Justice came to speak at the California Judges Association annual conference. The Chief talked about her vision for the branch, which she calls Access 3D. Access should be equal, physical, and remote. I believe the work of the Trial Court Facility Modification Advisory Committee absolutely fits into the Chief's vision because our committee's main focus is making sure our physical infrastructure is safe, secure, well maintained, and accessible. I know the chief administrative officer, Curt Soderlund, has asked his staff to assess the cost of making all our buildings accessible to all so our committee should be reviewing the report in the near future, and I greatly appreciate Curt's efforts to support the work of the advisory committee.

The advisory committee consists of five judges and four executive officers—small, medium and large courts represented. The group is geographically diverse. Ms. Linda Romero Soles, CEO of Merced Superior Court, Ms. Christina Volkers, CEO of the Sacramento Superior Court, and Ms. Jeanine Tucker, CEO of the Tuolumne Superior Court, are recent additions to the membership of the advisory committee. We currently have one CEO vacancy, which should be filled shortly. The advisory committee meets regularly to keep up with pending requests for facility modifications. We have four in-person meetings and four telephone conference meetings annually. The key objective of the advisory committee is to provide ongoing oversight of judicial branch program that manages renovations, facility operations, and maintenance consistent with the charge approved for the working group that preceded this advisory committee and the Trial Court Facility Modifications policy adopted by the council on July 27, 2012.

The core function of the advisory committee is to review, prioritize, and fund facility modification projects for the court facilities statewide, subject to the reporting of our ranking and funding decisions to the E&P committee and council. In fiscal year 12/13, the advisory committee reviewed, approved, and funded over 1,200 facility modifications. The advisory committee also is the point of contact if there is a concern from a branch court regarding a facility modification. We review appeals from the branch courts regarding staff ranking and funding decisions, and the working environment of the individual trial judges is of concern to us. The advisory committee is also concerned with energy conservation. This year the committee funded eight projects dedicated to energy conservation. I am informed that for the \$500,000 that these projects costs, we anticipate a \$160,000 savings per year in energy costs. This appears to be a wise investment in facility modification funds.

A *facility modification* is a physical modification to a facility or its components that restores or improves the design level of function of a facility or facility components. It includes an alteration, renovation, or rehabilitation of a facility. It excludes facility expansion. *Routine maintenance* is the routine recurring and generally anticipated work that must be performed periodically throughout the life of a facility. Examples are elevator maintenance, code

compliance inspections, fire/life safety inspections, and air-conditioning filters. The industry standard for changing of air-conditioning filters is six months. We change ours yearly or when they fail because of budget constraints. The key concerns of the advisory committee center on funding. There is not enough money for funding facility modifications or routine maintenance to prevent the continued deterioration of our court facilities. More facility systems will run to failure and qualify for P1 emergency funding.

The advisory committee has been tasked with oversight responsibility for operations and maintenance. O&M includes maintenance, real estate leases, insurance, and utilities. Fundamentally, we have identified that a lack of program funding impacts all the areas, and continued rate increases with utilities will continue to negatively impact our ability to fund routine maintenance work. A lack of routine maintenance results in increased demand for facility modifications. Costs are increasing to service new, larger buildings online for completion, and there is a continuing need to maintain the buildings taken off the SB47 replacement list. The current condition of many of our courthouses is still below standards due to the condition of the facilities at the time of the transfer and the marginal funding since that time. Many of our courthouses have building systems or components that are unreliable. Common complaint areas include roofing, HVAC, and plumbing. Patrick McGrath will now walk us through the slides on the funding shortfall graph, the 13/14 budget allocations, and some specific examples of projects that are on hold due to the inability to fund planned facility modifications. Patrick?

Thank you, Judge Power. In looking at the maintenance and rehab funding shortfall, the key areas to focus on are the areas in green. These are the funds that are currently available to fund these particular functions. At the very bottom is the lighter green color, and that is the courts facilities payment made to the AOC for the purposes of maintaining the routine maintenance, filter changes, fire/life safety system inspections. As you can see, that number is fairly stable through this fiscal year. The routine maintenance components include—the court facilities payment pays for utilities, routine maintenance, leases, as well as insurance. The \$40 million we are talking about here for fiscal year 13/14 is specific to maintenance. Added to that, we have the higher green bar of \$50 million for facility modifications.

From an industry-standard standpoint, that leaves us with a significant shortfall. In looking at the first red bar, that is a \$28 million shortfall that compares our routine maintenance funding to what an industry standard would be using the Building Owners and Manage[rs] Association national standard for routine maintenance funding for fiscal year 11/12. We are \$28 million short between what we should or what we have and what we would have if we were funded at an industry-standard level. As well as within the facility modification realm, within the industry there is a routing metric of anywhere from 2% to 4% for capital reinvestment in the existing infrastructure. Our current budget of \$50 million, in order to reach that reinvestment value, should have been an additional \$28 million. For this next fiscal year we are in the neighborhood

of \$56 million short of where we would be in an industry-standard model. That does not address the shortfall or the backlog of work that was left to us as part of the transfer. That is the top yellow bar. As you can see over time, that yellow bar continues to grow because our funding is not keeping up with age and we do not have the capacity to address those shortfalls.

In this next fiscal year, as the council is aware, there are several BCPs that the committee and the AOC have put forward to go to the DOF that if they are approved will significantly change our funding picture and our ability to at least keep our ground. If the BCPs are approved, we will have something in the neighborhood of \$71 million for routine maintenance and something in the neighborhood of \$77 million for facility modifications. Hopefully those BCPs are approved, but at this meeting we're here to talk about this particular year.

We are here to propose a total allocation for each of the allocation levels of \$50 million for statewide planning and allocation of \$4 million for Priority 1 emergencies and allocation of \$7 million. No allocation for planned Priority 2 through 6 projects and then the balance of the funding is allocated to unplanned Priority 2 through Priority 6 projects for this next year. Our expectation, or the expectation of the committee, is that the bulk of that \$39 million will be allocated to or limited to Priority 2 critical and emergency type work.

This proposal provides for some adjustments to last year. Last year this proposal represents a \$2 million increase for emergencies. As the facilities continue to age, we are seeing an increase in system failure. In order to prepare and plan for that, we have allocated an additional \$2 million up front at the beginning of the year based on our statistics from last fiscal year. This \$2 million came directly out of the funding for unplanned Priority 2 through 6 projects. We recognize we are triage and firefighting this particular system and program. At this point we will continue to have systems that are going to fail.

This last year, the committee and the AOC submitted a BPC for \$18 million for additional FM funding, which was rejected by the DOF. The impact is we had planned \$18 million worth of work for Priority 3 types of work. That impacts 16 different courts and 25 different facilities across the state. It was for Priority 3 work. The costs of the projects ranged from \$100,000 to \$2.9 million. As stated previously, the condition of our facilities continues to be impacted by lack of funding. Some of the projects that are currently on hold is a Mendocino County project to renovate some fan coil units for \$100,000, Fresno County Courthouse renovating elevators in their facilities for \$1.2 million, Gordon Schaber modernization of the HVAC equipment for \$1.3 million, Wiley Manual Courthouse with an elevator renovation project for 41-year-old elevators for \$2.9 million, Santa Cruz Main Courthouse renovating their HVAC system, as well as a renovation for elevators in Los Angeles metropolitan facilities. Judge Power?

Yes, the committee has and will continue to advocate for increased funding for this critical branch function. In meeting with presiding judges and court executive committees, as well as

receiving survey feedback from a significant portion of the courts, we believe our efforts to secure adequate funding is both recognized and supported by the leadership of the branch. We have worked with the AOC to prepare and submit BPCs to the Department of Finance. Those were submitted in September. [distortion] these BCPs will assist in bringing our program up to industry-standard allocations. While they will not significantly address the backlog of facility modifications, they will allow us to begin to fully restore our facilities. In closing, I request that the council adopt the \$50 million fiscal year 13/14 budget allocation. Thank you very much.

Thank you, Judge Power and Mr. McGrath. Justice Hull, and then Justice Jacobson.

Thank you, Chief. Thank you, Judge Power and Mr. McGrath. Forgive me if I'm overlooking this in my materials or if there is an attachment that I should have had that I didn't have, but I don't see anywhere where there is a description of Priority 1 versus 2, 3, 4, 5 and 6. Where do those break out in your presentation?

Priority 1 is essentially an emergency. In the facility modification policy there is a specific breakdown. To use it in a more colloquial phrase, Priority 1 is an emergency; the court is immediately impacted. A Priority 2 is something that if we don't address in the next six to nine months, failure is imminent, and we need to address those. A Priority 3 project is a needed project, it's a good business investment, it's something that the court needs to happen either operationally or from a process-management standpoint. Priority 4 is hazardous materials as in a code compliance requirement for a fire/life safety system. Priority 5 means it's old but it is working; a vast majority of our funding is required in the Priority 5 category. And then Priority 6 is materials such as lead and asbestos that are okay as long as you don't touch them. You can manage them in place.

I understand the priorities, especially 2 through 6, have to do with how severe the problem is, in order, 2 being more severe than 3, at least time-wise and otherwise. Do I understand that the \$39 million that is proposed here—and I can appreciate how you can't really anticipate the future very well—but is it proposed that at least to the extent that you can that the Priority 2 projects will be taken care of first and the 3 and then the 4 and then the 5, and if the earlier priorities exhaust the \$39 million then the rest of them just have to wait, I guess?

We are only funding Priority 2s and Priority 1s with this budget. We're not going into 3s. Justice Hull, there is a detailed description of the priorities in the Trial Court Facility Modifications

policy adopted by the council July 27th, so it's in that document. But we're only going to get to 2s this year.

Thank you for reminding me of that. I was a little bit where it says for Priorities 2 through 6, I wasn't quite clear. But I am clear now, thank you very much.

Thank you. Judge O'Malley, and then Mary Beth Todd.

Thank you, Chief. Just a couple questions and then a comment or so. In the \$18 million budget change proposal for 13/14, when it was rejected by the Department of Finance, did they have an idea of specifically where that money was going, for what purposes it was going: HVAC, 40-year-old elevators, which concern safety of all court users, as well as those people working within the building? Did they know where it was that money was to be spent?

The budget change proposal was submitted with the project list to essentially say, Here is our need. Here is where the funding is. Would you like to talk, Curt?

I hate to be perfectly blunt, but they didn't get that far. They simply rejected looking at the BPCs. They refused to review them at all based upon what they viewed as their workload constraints.

So in the future since we are depleting our fund balances and we have no money and we're taking money from court construction and they're not even going to look at these things, how do they expect us to fix these serious and dangerous problems to our courthouses?

That is where we engaged the Department of Finance through real estate facilities maintenance, and we're having an ongoing dialogue with the Department of Finance on the need for those proposals to be approved.

How is that going?

It is early.

Just a comment, in looking at these projects that obviously were not even worthy of having a serious look to see where this money would be spent, having been in a courthouse with broken down air-conditioning,—how many of us at this council room have been in those?—it is unsafe, it's so intolerably hot. And I can imagine Kern County that needs an HVAC system. I mean, how hot, Justice Baxter, might it get around Kern County in the summertime? Pretty hot. For those of you in The Valley, the real Valley, it is dangerous and jurors can't focus, they can't listen. It is intolerable, and this prevents people allowing to have their day in court and prevents access to justice in a humane way to the point where we can conduct business in a logical manner. Who wants to get in a 40-year-old broken down elevator? Judge Elias is gone but she has told me stories about the elevators in downtown L.A. The squirrels can't run fast enough to get those things up and down the building, they are that old and that malfunctioned and broken down and it is frightening. I fear what is going to happen as I see these buildings deteriorate to the point where there is going to be some serious harm here, and they have given us really no avenue to address what I foresee as very serious problems here. \$18million can do a lot of repair to five facilities that are going to make life tolerable, which is now intolerable, I would imagine, at certain points of the year. I am at a loss. We have come to this where they have taken the money, they've asked us to submit budget change proposals, yet they don't have the time to look at them for needs as serious as this. It's very disheartening.

Mary Beth Todd, and then Judge McCabe.

Thank you. I've got two questions. My first question is kind of piggybacking on the Priorities 2 through 6, and I don't know if I didn't pick up on a nuance but I'm not real clear on the difference between a planned Priority 2 and an unplanned Priority 2, and why an unplanned Priority 2 would be more of a priority.

In essence, the idea in a normal funding world at the beginning of the year you would know where the large bulk of your money is going to go. Just as we have with the capital projects, we know where that money is going for the next 50 years because we've been able to plan it. The challenge in our program today is the funding is so limited, and we're restricted to dealing with just those unplanned, it's going now—we can't Band-Aid it anymore types of situations that we are really not able to get ahead of the curve and proactively commit to larger projects. The

anticipation would be that what you would be bringing as planned work would generally be a Priority 3, 4, or 5 type of project that is much more proactive and preventive in nature and that the Priority 2 work is the stuff that no one had foreseen would degrade quite that quickly, and in that budget—in a well run and fully funded program that has been able to run historically, you would see a larger share going to planned and a lesser share to unplanned because you're able to get beyond the curve of failure.

So to paraphrase, are you saying that really there aren't any planned Priority 2s? For the most part, if it's Priority 2, it's in the urgent and unplanned category.

That's correct. Last year due to some funding limitations in the prior year, we had facility Priority 2 projects that we were not able to fund so we brought those to the Council as planned Priority 2s because we ran out of money in fiscal 11/12.

Just trying to make sure that that didn't disqualify them from getting funded this year.

This year we were able to fund all Priority 2 work.

The second question I have is, As we're having to go to this run-to-failure model, will that be the same model for new courthouses coming online or will there be some form of a bifurcated system? I don't have a great solution here. I'm not sure which way you would want to go but if you have got an old courthouse and you run it to failure, okay, it was old anyway, but when we go to the new courthouses I don't know if you can share any strategies that you are considering with respect to that.

Curt Soderlund. Among the other budget change proposals we have submitted, it is an attempt to address what had been previously rejected by the Department of Finance, is an increase to the infrastructure amount that would support the new buildings coming online. As the new buildings come online, there is more square footage that has to be taken care of. There are additional staffing costs. Those proposals are part of the package that has been submitted to the Department of Finance. Also, the augmentations we're talking about is a combination of general fund and from the construction funds, too, and it is an ongoing increase we are seeking. This is not a one-time increase. Part of this deals with—you might recall the \$350 million loan that is supposed to

be repaid. In working with Gisele Corrie, we have updated our fund condition statements working upfront with the Department of Finance, and that is the long-term plan over the next 15 years: to have an augmentation to the base for these types of projects.

Judge McCabe, Commissioner Alexander, Judge So, and David Yamasaki.

Thank you, Chief. Brian McCabe from Merced. Judge Power, good seeing you again. I went to a seminar two weeks ago in Southern California, had breakfast, chatted. So here we are once again. Thank you for answering the question about planned versus unplanned. You are satisfied with the allocation breakdown here, that that is going to be sufficient, particularly about unplanned. There is money out there and quite frankly the reports we have been getting from the various liaisons from the courts, there are probably lots of unplanned out there. If it is not sufficient, the mechanism to come back to this council to reallocate if you need to?

The policy allows us to reallocate presently. This is for planning purposes. I think it is important to note that we are allocating more to emergency because we're doing more run to failure. I think it is a reasonable allocation. It's one that we have reviewed, and I think it is appropriate.

And if I understand you correctly, this is being brought to the council not only for informational purposes but ratification?

Yes. It was an action item, yes.

I would move to adopt the recommendation allocating the \$50 million as presented.

Second by Judge So. Commissioner Alexander.

I want to talk about the run-to-failure idea. One of the ones I noticed on the proposal that didn't get done was the Hayward Courthouse in Alameda County. I happen to sit in a courtroom in the Hayward Courthouse where the hallway that I had to use to get to my chambers from the

courtroom kept flooding and it closed that area twice at least and then, another time, that was for several months before it could get repaired. I'm not sure what the costs are because I'm not involved in that part of continuing to repair that same problem over and over again, moving a courtroom to another location so that the hearings areas could be heard, having the staff have to run around trying do that but it seems that compared to \$230,000 is we are spending money on top of money on top of money.

Some of the Alameda courthouse was due to I believe inmates sticking T-shirts into the plumbing and that is something that is totally unplanned.

[Indiscernible].

Judge So, beyond your second did you wish to be heard? [No.] David Yamasaki?

Thank you, Chief. I wanted to thank Judge Power and Pat McGrath for all the support. They have been very responsive to all the courts in addressing the facility needs we face. But I also wanted to speak to something Sue Alexander mentioned and that is, the reality we are facing is that many other things we are having to deal with are these runs to failure. Has there been an analysis done that could perhaps strengthen our arguments in terms of BCPs of the result of failing to replace something and having to now fix it because it failed?

I would suspect it would be a much higher cost to fix it as opposed to maintaining it in some fashion.

I concur with that. That is very much a reality. The ancillary damage to deferred maintenance is huge. We have not done a formal study to look at the ancillary damage costs or the increased costs—rather than replacing the single compressor, letting the single compressor fail, run the chiller off of the second compressor, and now when the main compressor goes down you are on overtime in an emergency to get that back up so the court can operate the next Monday. Those types of evaluations have not been done partly due to staffing issues, partly due to The funding is the funding. However, I think that is a good point to take back and to take on as an initiative to begin some evaluations.

Curt has a comment.

So what you are talking about really is the cost of deferred maintenance and the standard that we try to follow that Patrick had mentioned, as well as Judge Power, is the BOMA standards, and that is the national standards and that is the issue. We're not funded at that level and it is very much akin to if you don't replace the oil in your car or don't replace the filter, eventually something is going to happen to that engine. That's very analogous to what's going on here.

Judge Rosenberg.

Could I just make a brief comment? Thank you, Chief. This work that you do, Judge Power, Mr. McGrath, and the committee, is not sexy. It is a difficult, kind of a slogging job but boy is that important for the branch! We on the Judicial Council really thank you for your labors.

And Judge Rosenberg, if I can put this in context, I just finished reviewing the fourth quarter's activities for facilities modifications and there were a total of 167 projects, and if memory serves me correctly the projects ranged from a range of a little over \$1,000 to \$1 million. There's a wide variety of projects that this money helps support.

Justice Miller.

And, lastly, again, from E&P, since this is one of the facilities committees that reports to E&P, we are familiar with the extensive amount of work you do on an ongoing basis so we also want to thank you and Judge Highberger and your committee for taking this on. I wanted to assure the council that because, as you are approving this, a number of these are going to be decisions that are made in the future that we have set up a process for their committee to report on a regular basis to E&P so we can continue with that oversight and then that information is given informationally to the council. So, Judge McCabe, there is a process that makes sure that that's being overseen.

Thank you, and I want to say that I've only ever heard praise for your committee and the magic you are able to do with so few resources. I remember very well what Senator Evans said to us at

a council meeting not too long ago that we don't have the money to date to spend a dollar to save five tomorrow. I am hoping that that idea and philosophy has softened somewhat as the state's revenue picture has improved, but I know what the mindset is that you face in the capital—that we face regularly—so I appreciate all your efforts and your continuing effort to seek funding for this important work for the court that is really for the public as well.

We do have a motion on the floor. We've had discussion. All in favor to accept the recommendation, please say Aye. [Aye.] Any opposed? Motion carries. Thank you again. [Applause].

Finally, we conclude today's meeting as sadly we often do with a brief remembrance of judicial colleagues that have recently passed. I name them: Justice William Clark, Supreme Court of California; Judge Joseph Martin, Yolo County Municipal Court; Judge Dewey Falcone, Superior Court of Los Angeles County; Judge Mario Barsotti, Alameda County Municipal Court; Judge Richard Tuttle, Superior Court of Sacramento County; Judge Robert London, Superior Court of Los Angeles County; Judge Rosemary Dunbar, Superior Court Los Angeles County. All were retired from the bench, and we honor them for their service to the court and for the cause of justice. The next regularly scheduled meeting of Judicial Council is December 12 and 13. The meeting is adjourned. Thank you, and safe travels, and Nancy will have an announcement.

[Event Concluded]