

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 December 13, 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](http://www.courts.ca.gov).

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Please stand by for real-time captions. The meeting will begin at 8:30 a.m. This is the business meeting of the Judicial Council of California for December 13, 2013. We are in session. I don't believe I need to remind council that we are audiocast live so please speak into your microphones and try to remember to identify each other by name if it's relevant in the conversation. This morning our first agenda item is the liaison reports that we look forward to hearing. Remember this is a project started by council where council members take their time to go into the communities and the courts and meet with the local courts to find out what is happening there and what information we can convey to the council for issues that we can act on in the future. A show of hands of who would like to give a report of the liaison report this morning? Judge Ellsworth and then Judge Walsh. Thank you.

>> Good morning and thank you, Chief. I am reporting on Orange County Superior Court. I had the opportunity to visit with them back in August but because of scheduling have not gotten around to give this report. I checked with Orange County to see if there was an update and was told that things were pretty much the same. I will say about our friends—for me, my friends to the West—that Orange County was such a wonderful visit with such a great leader. Judge Borris has done so many great things and given so much service not only to the branch, but to the local area and certainly was one of the key individuals in this methodology reformulation. So it was a pleasure to visit with him and his executive team for the most part. They are a hard-working court like so many courts and they are a very efficient court. They have always been one of the leaders when it comes to technology. They have been ahead of the curve and have worked very hard. And now they find themselves with some very difficult things happening in their family law arena as well as I think it is the probate that some of their systems they're concerned about and they continue to be concerned about V3. Nevertheless their biggest concern was service to the public, and when we spoke, it was not about overworked judges or it was not about how they could improve their lives individually, but they really were concerned with for public, for the windows that they had to close for the public and service getting to the public.

I was so impressed with their whole team. That was the complaint is that we want to serve more and do more and we feel that because of the budget that they are really in a position where they have had to scale back on many things, finding themselves, July 14, at that time—excuse me, July 2014—with about a \$40 million gap and they're trying to think of how they can scale back

more in ways that won't affect the public. So I was so impressed with their teambuilding and working and their very positive attitude about trying to make the most of everything that they had been given.

They were down a lot of judges, and that is particularly difficult because they have a very unique situation that we found ourselves in Riverside County a couple of years ago that much of their bench has only five years of experience or less. That reverberates within their county, especially because they do have a lot of complex cases like many of us do. When you have a bench that is so young and such a larger number at such a young age, they may be excited and they may be hard-working, but there is that learning curve that really creates a difficult situation. So they kind of have a situation in Orange County where they have a lot of complex litigation and have a volume of litigation and criminal and all other areas as well. They are down judges and the judges that they do have, most of them or a good portion—up to 50 percent—are five years or under. And they are understaffed because of the resource issues and they are also closing the door to the public. So such hard-working folks and such a pressure cooker many of us can relate to, but I was just so impressed with their attempts with Alan Carlson and Judge Borris and their whole team of trying to reengineer how they can still give the best product to the public and that was their main concern. They are concerned about V3, as I have indicated. There is lots of steps that I could share with you. But I think I just have to express that it speaks volumes about a county who is under-resourced as I have indicated by the shortfall to them. I'm not talking about any other margin but the shortfall to them. They were really good stewards and really built up funds in order to take themselves technologically into the future and those essentially in many ways for being good stewards were punished and had them swept—. It speaks volumes to see them come to the table in that court, both the executive leader there and Judge Borris, and say that we will give and be part of the funding methodology. To me, that was just a really historic moment speaking for the branch and not speaking for an individual county. So think I would like to leave on that note that they're really doing what they can to make California better and not just Orange County. So impressed with them and it was such a delight. Whoever takes over as liaison to Orange County—and Emily and I are both the liaisons, and I neglected to mention that—but they are just such a fine group of hard-working individuals who think more about the whole of the picture instead of the small myopic kind of piece. I appreciated it very much. Thank you, Chief.

>> Thank you, Judge Ellsworth. I know many of us for many years have looked to Orange County for its innovation, especially in technology and especially their seeming ability to see around corners as they made themselves more efficient and therefore providing greater access to the public. So this news that with recent events as well as certain legislation that affects their ability to continue to plan and provide access resulting in a \$40 million gap is really hard news to take, especially for one of these kinds of counties.

>> Judge Walsh?

>> Thank you, Chief. My visit and report are hot off the press. I was at the wonderful downtown Modesto—Stanislaus—Superior Court last Monday, December 9. I had an excellent and inspiring visit with a very impressive group of judges and managers and staff. Of course downtown Modesto for those of you who know—I hear there are some trivia buffs here—downtown Modesto is the inspiration for George Lucas’s “American Graffiti,” though it wasn’t filmed there, but you probably raced right in front of the courthouse. It is that old. It was hosted by their PJ, Lori Begen, and their APJ Judge Jacobs and their CEO Rebecca Fleming and all were wonderfully welcoming and very impressive in their commitment to the public service that they provide. I later met with the management staff and that court’s executive committee. Of course we spent the entire day indoors. It was a cold morning so I was hoping to get warmed up inside. I get that inside. It’s 52 degrees throughout the entire courthouse, the chambers, so everyone, all day, is in scarves, gloves, and full overcoats. I think they think they need a new courthouse. I’ll talk about that in a moment. [ laughter ]

Despite that, they were all cheerful and enthusiastic and clearly committed to the public service. They describe the situation, these are quotes: they are a woefully underfunded court, they are operating in survival mode, and they’re squeezing everywhere and getting it done.

They acknowledge though that with everyone stressed with too much to do and too few resources, their Worker’s Comp has gone way up. And I saw the far more duct tape and cardboard for repairs than I think is fitting for a public building. But that’s how they have to get by. They tell me that the good work they’re doing—they’re getting their cases, they’re serving the public—but they believe that it’s not sustainable over the long term without increased resources.

There are two—I asked them what are the good things and what are the major challenges— and they said there are two big pluses for that court. The first is that they’re very technologically advanced. They showed me in fact their server rooms. Very impressive! It’s a huge server room with all of these components in it. But I told them it looked like Apollo 13 because to keep the thing going and this is where they had cardboard with duct tape attached to these huge advanced servers and that’s how they get by and they’re fine with it for now anyway.

The other big plus is the great attitude everybody has. They have a very collegial bench, they tell me, and excellent camaraderie among the administration and staff. Stanislaus has a = population of about 520,000, and they have 26 judicial officers. They are on the list for I think two more, although in terms of the total judicial needs, the study shows they need 10 more judicial officers. The staff positions have fallen from 265 at the high point in 2008—2009 down to 197 right now. They provided me with a long list of steps that have taken to operationalize budget cuts, and they assured me that they’re not spending public money on high raises. Twenty percent of their staff are on some form of aid—food stamps or other kinds of aid—because they don’t get paid enough. So if anybody is listening in Sacramento, we are not wasting dollars, they are not wasting dollars. They’re doing a lot and sacrificing to get it done.

Their major challenges: they are there worried about the 1 percent reserve. They need at least 10 percent just to make payroll, and they're concerned that without reserves they cannot maintain capital projects like technology, and they also worry that because of their lower staff, they've relied heavily on technology but they worry that if they become technologically heavy, it becomes an impersonal court, and they don't want to go there.

As to their construction project, they have been approved by the AOC and the council for a building, which they badly need. They now have one really old building and one 50- or 60-year-old building mashed together there in downtown, and they're trying to get a new courthouse. Apparently, they have been approved to acquire land and that will be downtown and badly needed. It'll be a 300,000 square-foot courthouse with 26 courtrooms in it.

They have a very positive attitude about the AOC and a good relationship with them. They want to be more involved with branch activities. I was very impressed with their CEO, Rebecca Fleming. She seemed on top of everything and she inspired everybody. She blended personal skills with great technological knowledge and a dozen or so judges I met with were wonderfully engaging and care deeply about their work. One of the big problems that they have is that they claim that they are the number one auto theft capital in the US. [Laughter.] I've heard Fresno wants to claim that, and maybe San Joaquin. Apparently, it moves around. But they have a real problem there, and I think we may be discussing this at our annual meeting of the PJs and CEOs. With 109, more folks are coming from the prisons and filling their jails. As a result, if a judge in Stanislaus sentences somebody to jail, they go in the front door and out the back door, and they say that is killing judicial morale besides disserving the public because when you wag your finger and say to the third-time DUI, "Sir, it is a minimum 120 days in jail," they smirk because they know they will get sent to jail and they're going to walk out the next day. One judge told me she had a DV defendant, sentenced him to one year in jail and saw him a few weeks later back in front of her and thought, well there must be something with the sentence. No. He'd been let out, did another domestic violence act, and was back in front of her within a month. They say that is what's really not sustainable. It is the dysfunction—you put people in jail, and that's the jailor's problem—but it's not when it comes back this way because now they have no credibility with the defendants and apparently it is really eating up the morale of the criminal judges who cannot serve their community in the way they want to. But, again, a great attitude by all, everybody pulling together, everybody helping each other. Happily, they were one of the sites for the LAO visits so if the LAO could see them, if the Governor could see them, if the Legislature could see them, they will see public servants working hard, doing their best to serve their community with very limited resources but making everything work, whether it's duct tape and cardboard or simply a smile. These are great people. I was proud to be with them. And I'm proud to say they're my colleagues in the judiciary. So I was very impressed with Stanislaus. Chief, that's my report.

>> Thank you, Judge Walsh. Justice Hull?

>> Thank you, Chief. If I may. I am liaison to, among others, Calaveras County, and I don't have a full report today, but I did want to make note of the fact that I had the good fortune and honor to represent the Chief and the council at the opening of their new Calaveras County Courthouse in mid-November. Presiding Judge John Martin, Court Executive Officer Hugh Swift, and all of the other people were very, very welcoming, and that is a bright spot after Judge Walsh's explanation of the difficulties that he has described that we have all seen. It was very much a relief for them to have a courthouse with all four departments, and they're going to have an adjacent jail facility where there will be done soon, where they'll have better efficiencies in getting their defendants back and forth. I very much appreciated the welcome of Presiding Judge Martin. I suppose, curiously, he's not only the presiding judge, he's the only judge there. And the one thing that they had mentioned to me when I do make a full report that they are really sort of suffering from at the moment is that they have one commissioner and they have their retired Presiding Judge Mewhinney, who has been such a stalwart in that community, both the legal community and otherwise. He is still hearing a great deal of cases. They very badly need to have the Governor appoint to Judge Mewhinney's bench or position there and they're sort of in a difficult position until that's done. They're sort of relying on his good offices to help with the caseload. But I'll have a full report with Calaveras, but I wanted to note that it was very, very nice to see the new courthouse that they very badly needed come to fruition.

>> Thank you, Justice Hull. Judge Rosenberg?

>> I have a quick question and a comment. The question is, these reports are wonderful but we also have liaisons to the various departments and divisions. Do you want in the future those liaisons to report as well? Or you are we just focusing on liaison reports to the individual superior courts?

>> For right now, what we're going to do is to just have you report on—I'm not trying to jump in front of you but E&P has been handling this, and so we're going to have the court reports here and then we're going to start with the individual AOC reports so that E&P gets that information directly and then we'll have you at one of the Judicial Council meetings.

>> Thank you. My comment relates to the point that Judge Walsh raised in his visit to Stanislaus. I suspect that this is pretty widespread in California. Perhaps it is something that we should consider having on the agenda of the Judicial Council at the appropriate time. This comment is not in any way, shape, or form criticism or attack on the county sheriffs who are now state prison jailors for local time, but I think we are all seeing people being sent to county prison if you will being released very quickly and also seeing long sentences to county prison that I don't think folks necessarily ever anticipated. We have a number of people that have been sentenced for 10 or 12 or even 18 years to county prison. I wonder about the impact of that because I find it hard to believe that they will actually serve 10, 12, or 18 years in county prison, so to look at that at some point is something that I think the Judicial Council should consider.

>> I think that is an interesting topic for an educational meeting given the 58 courts and the different practices and resources available to the courts and law enforcement. Judge McCabe. I'm sorry, Judge Jacobson. They switched the seats. There we go.

>> There is an enormous amount of variation on this very issue. So I can tell you in Alameda County there is very little long-term sentencing going on under 1178 and we don't have the cap release issue. We have open beds. We don't have the one-in-one-out kind of situation. But the variation is enormous from county to county and it would be a very good topic.

>> Thank you. And let me say one thing about Judge Walsh's report. I had the pleasure of meeting the Modesto bench at an event and I absolutely echo all you said about them and it's not only their collegiality and their hard working amongst themselves. I think it is fairly contagious and it is true for the legal community as well. They have a great deal of support in the legal community and they partner, and it's clear in one way how they cope with their diminished resources is as a group—and not only the bench officers and the hard-working staff, but also the legal community. I appreciate that update on what is happening in Modesto.

I think that concludes our liaison reports. Next on the agenda we have public comment.

>> Chief, before we do that, just for the record I would like to indicate how pleased I was with the ceremony last night, and I know that Claudia Fernandez received an appropriate accommodation for the fine work that she did. But I would like to repeat that for those listening in on this meeting. I have had the pleasure to work with Claudia for quite a few years, and I think she does an outstanding job so sorry to interrupt. I just wanted to get that in.

>> No. Thank you, Justice Baxter.

>> Chief. We don't have any general public, but the only public comment is to discussion item T, and that is not scheduled until 9:45, so that person isn't here yet so I don't know if maybe there's some way that we could take some of the other items first?

>> Yes we'll first look at the consent agenda and then get to the other items. As we get to the consent agenda first, let me call on Judge Baker.

>> Chief, thank you. I agree with everything on the consent agenda, but one of the items on the agenda, item M, deals with dues assessments for the National Center for State Courts. I sit on that board, so for the record, in order to avoid conflict I need to recuse on that particular item.

>> Thank you, Judge Baker. So noted. On the consent agenda, we have 24 items. You know the background of the consent agenda. I always point out that any member of council may pull an item from the consent agenda to the discussion agenda. We have not had that request so we move the agenda. Do I hear a motion and the second?

>> Motion. Second.

>> Thank you. Seconded by Judge Jacobson, first moved by Judge O'Malley, and all approved. Since we are ahead of schedule and item T is next on the discussion agenda and we don't have the person who wishes to make public comment, let me call on then item U. Are we able to proceed on item U? Are all of the presenters here for that? Thank you. As you can see, item U is not an action item. Presenters are Judge Herman, chair of the Tech Advisory Committee; Judge David De Alba, vice-chair of the Tech Advisory Committee; and Mr. Robert Oyung, Tech Planning Task Force.

>> Robert Oyung is not present yet, Chief.

>> Held on one moment.

>> I can do W.

>> Okay, we're going to skip U because we are way ahead, and we're going to go to our 11:25 item, W. This is an action item, Judicial Branch Administration: Report and Recommendation to Improve the Governance, Structure, and Organization of Judicial Council Advisory Group—the SB 56 Working Group, and we are calling that because Justice Miller has said he's ready for that.

>> Alright, Chief, this relates to the governance and oversight that the oversight Judicial Council undertook a few years back with regards to the various advisory groups, workforces, task forces, and all of the different groups in our reorganization of all of that aspect, and one of those was the SB 56 Working Group. SB 56 is a 2006 statute that requires the Judicial Council to report every other year to the Legislature and the Governor on the factually determined need for new judgeships in each superior court. It also requires the Judicial Council to report every year on judicial administration standards and measures that promote the fair and efficient administration of justice. The AOC submitted the first such report back in May of 2009. The Administrative Director created the SB 56 Working Group in August 2009 in order to advise the AOC and future work regarding the judicial workload assessment and resource allocation study models. Since then they have been making their regular reports to the Governor and the Legislature.

In 2011, the council approved a report from the SB 56 Working Group recommending updated case rates to estimate the number of new judgeships in the superior court. In 2013, the council approved a report from the SB 56 Working Group recommending updated case weights and other workload measures used to estimate the need for staff in the superior courts. The work of this advisory group will need to continue to assist our branch's compliance with state law and to advise the Judicial Council in its future policy decisions that involve judgeship needs and the related need for court staffing, but also, the staff workload model or resource assessment study model, which now serves as the foundation of the recently adopted workload allocation and funding methodology, which speaks to the critical need and the ongoing work of this advisory group. So the recommendation of the five [?] chairs is that we convert this working group to a standing advisory committee so that they can continue the work and all of the different aspects of

what they have been charged to do. They will be overseen and under the guidance of E&P, and at the same time RUPRO, if this is approved by the council today, will then develop a rule for the new advisory committee.

Based upon the work that they do, the need for that work to continue, especially with the judgeships and with the workload allocation funding methodology, we are requesting that and recommending that the council approve the creation of an advisory committee overseen by the E&P and that RUPRO develop a rule for the new advisory committee. Any questions? Yes.

>> Judge Rosenberg?

>> I am completely in support of this but I'm really glad to see that we've given this group a name. I hated the name SB 56 Working Group. It's now going to be called Judicial Branch Resource Needs Assessment Advisory Committee, so henceforth I guess it will be known as JBRNAAC. [ laughter ]

>> And for those of us who don't have a math background, that's what it is: jibernac.

>> Yes, Judge Walsh. First, to comment, I support this and I think it's a great idea. I had occasion as a member of the [Watham?] subcommittee to work closely with the staff of SB 56 and to see the results of the work of that committee, and we have had meetings with Judge Alksne, who is their chair. They are tremendous; they're just wonderful with what they did and how accommodating. We would ask them these crazy questions and they would get back to us with the information. So I just want to give a shout out. Dag Macleod of course is long gone across the Bay but he was great, but Leah Rose Goodwin, Steve Chang, and the leadership of Zlatko Theodorovic—it is incredible what they did and [Watham?] could not exist without their work.

I am hoping that this is simply providing longevity and resources that will not change the committee because the committee has developed great expertise. Judge Alksne has done a great job as chair. I just want to compliment them and hope this reassures their continued great work.

>> And actually it is to accomplish just what you said.

>> Then I'd support it.

>> Mary Beth Todd.

>> I have been on the SB 56 Working Group since its inception and the working group prior to that, which I think was the Allocation Study Working Group, or something along that line. I want to echo Judge Walsh's comments. The staff have done an excellent job and to really emphasize the need for some continuity as we transition this to an advisory committee. It is very technical work that this committee does. In the past few years, we have only met once a year. It's very difficult even when you have been on the working group to remember what we did a year



ago and come back up to speed. So hopefully by giving it advisory committee status they might be able to meet more often, even if it's by telephone, but at least to be touching base and to bring some continuity as you consider the appointments to that committee from the old working group.

>> I also want to give a plug for Leah and the Office of Court Research and Statistics. They do an excellent job with this committee with very few resources. And as we do work with [Watham?] and we continue to fine tune it, it is becoming more and more apparent that there is a lot more work to do and while resources are very scarce, we are going to get out of this what we put into it. And I would really emphasize that we really look at the resources we are able to put toward this effort and consider if we cannot expand those to the greatest extent possible, because my understanding is right now Leah and Kristin both are part time and I wouldn't know it. I would not know it. I was amazed to find out they're part time because they're always putting 150 or 200 percent into what they're doing. But we had some [Watham?] discussions the other day where some new data elements we decided would really benefit the model. But it's all a matter of resources. So I really encourage us to take a look at that as we move forward with this new advisory committee.

>> Thank you, Mary Beth.

>> Is there a motion on the floor? Judge So. Second by Judge Herman. No hands raised for further discussion. All in favor of adopting the recommendation please say aye. Any opposed? The motion carries.

>> I believe we are ready in our discussion agenda to hear item T, and I believe we have a speaker. We invite you to the podium. Thank you. Welcome.

>> Good morning. I'm Mary Lou Aranguren with the California Federation of Interpreters. I'm here this morning on behalf of our outgoing president, Michael Ferreira, and our incoming president, Ariel Torrone, who could not be here today. Good morning, Chief Justice, council members. I have some good news for change. So I will start that. We have reached a tentative agreement in 15 Northern California courts. That by all accounts is a fair compromise. Though it is still being ratified, I am confident it will be approved. We are pleased for our members and for the courts we serve that this was accomplished without the disruption of a strike. We are encouraged by the modest improvements of this contract provides in compensation. After so many years of wage stagnation, this is at least a start in the right direction. We represent another 400 interpreters in Los Angeles, Santa Barbara, and San Luis Obispo, however, who are working without a contract and are also long overdue for some relief. We urge the council and the ad hoc committee addressing the interpreter budget to bear that in mind as budget decisions are being made. Recruiting and maintaining a workforce of skilled interpreters, particularly with anticipated need for the expansion of these services, requires investment in that workforce. The courts also rely on independent contractors to provide supplemental and essential services. Their compensation has not been adjusted since 2007 and should be adjusted in conjunction with

increases to staff interpreter wages. To provide for expansion of services and necessary growth in wages, the full interpreter budget and unspent resources will be to remain available for interpreter compensation and benefits. Our agreement in region 2 also includes a delay in any implementation of video remote interpreting for a year, pending adoption of the statewide language access plan. We are encouraged that stakeholder meetings and public hearings are part of developing that plan and expect there will be further opportunities for dialogue with interpreters and the organizations that represent them about how best to expand language access and ensure quality services. The appropriate use of VRI is yet to be defined and this remains an issue of great concern to us and to judges, justice partners, as well as community and legal organizations we work with. Prior to implementing VRI, it will be important to adopt enforceable standards to protect civil liberties and meaningful access to justice. Development of these standards should include interpreter representatives who understand intimately what it takes to bridge the language gap and should involve a serious cost-benefit analysis. Now to item T. The legislative priorities on your agenda today include restoring funding to the judicial branch and expansion of interpreter services. We hope that we can find common ground in both of these areas so that we can work collaboratively with you on those priorities in Sacramento, and we look forward to working with you on accomplishing both of those goals.

>> Thank you. On item number T we turn this over to Judge Ken So, the chair of PCLC, and Ms. Laura Speed, AOC Office of Governmental Affairs.

>> Good morning. We are talking about PCLC-recommended legislative priorities in 2014. And of course the number one priority is to advocate for a robust investment in our justice system. That investment would avoid further reductions and preserve access for justice to all California. The second priority is to advocate to secure new judgeships and ratify the authority of the council to convert the vacant subordinate judicial officer positions to judgeships in the eligible courts. And, third, we are recommending to advocate for legislation that will expand access for interpreters in civil cases. These legislative priorities embody the Chief Justice's access 3-D framework for increased access to courts through improved physical access by keeping courts open and operating during hours that benefit the public to increase remote access by increasing the ability of court users to conduct branch business online, and for enhanced equal access by serving people of all languages, abilities, and needs and reflect California's diversity. Laura from our Office of Governmental Affairs is here to provide further background on the proposed legislative priorities and will answer any questions anybody might have.

>> Good morning and thank you. Just to expand a little bit on what Judge So said, we do have the three priorities. Number one is budget stability, and within that priority itself the reinvestment in the branch to continue services to the extent that we can restore services that have been cut, grow funding to continue throughout the years of as we know certain costs will go up, and then the continued support and sponsorship of the efficiencies that have been previously approved by the council in 2012 and earlier in 2013. For the judgeships we'd be seeking or recommend seeking the funding for the second set of 50 judgeships that was approved in 2007

but has yet to have been funded at all. And then seeking the third set of 50 that we also need under the latest workload assessment and then continuing to sponsor the legislation to ratify the council's authority to convert the SJO positions to judgeships. And finally the third item is to advocate for improved language access. PCLC approved a specific proposal on Tuesday, December 10, that will be coming before you on your January meeting. But this will allow the courts to provide interpreters in civil cases regardless of income of the parties. Those are the three recommendations, and I'm happy to answer any questions.

>> Thank you, Laura. Judge Rosenberg?

>> The only issue I wanted to raise is that when we advocate for the new judgeships, we should not lose sight of the fact that studies have shown we need at least 350 new judgeships if I remember the number correctly. And obviously that can't be accomplished overnight. But even if we fund the second 50 and we get the third 50, we are still short. That is a very significant access to justice issue. So in our advocacy we should make sure to make reference to the studies that show we're well short of needed judicial officers.

>> We can include that in our messaging.

>> Judge Jahr, then Judge Ellsworth, and Judge Elias.

>> Just as a matter clarification, on the report that accompanies this item, at page 4, there is actually a very handy summary of our current budget situation. There is a typo, which I will tell you is material. It's found on the third paragraph second line where it says \$20 million. That should be \$200 million. This was a topic that I addressed with council members at an earlier point, and once again reflects the use by the trial courts in fiscal 12-13 and it is used again in 13-14 of the reserves to effectively subsidize what have commonly been referred to as structural deficits. Of course under current law unless changed, reserve dollars will not be available, or if you prefer, fund balance dollars will not be available for that purpose because they won't be available.

So right off the bat we have legality hole to dig out of for 14-15 just to stay at 13-14 levels. So once again the entry second line, third paragraph, page four, that says \$20 million should say \$200 million. Sorry for the interruption and the oversight.

>> Thank you. I just want to express that I think that it is really wonderful that we are going after the funding for those unfunded judgeships. It means so much to so many counties. And I think that perhaps in the discussions, if you need any information from any of the individual counties that would be beneficial, I think for example the updated information for Riverside County, that should have anywhere between 148 two 150 judges, currently has 58 and by 2014 will have 9 vacancies of that. So, when you look at the percentages towards the total whole of 150, then you start being able to realize in a population of over 2.2 million individuals in the caseloads. I think some of that information becomes very real when taking that charge. So I know that many of the

counties would be happy to provide you with the nuance or the updated information that puts the percentages into clarity because it's not like we are just down a couple of judgeships. That 6 will mean that we are increased incrementally that will be just a saver for all of us. So I think that the personal information—just thank you for bringing that to the charge.

>> That's very helpful. Thank you. Judge Elias. Mine is just a question. It's my understanding that with judgeships we theoretically getting more funding for staff? Is that correct?

>> Yes, the funding for that includes whole package.

>> So your request for more judgeships is including a request for more this additional staff to go along with it.

>> That's right?

>> Okay, thank you.

>> Judge O'Malley.

>> And the one thing that you want to stress is that these were approved. You know way back when, there was a legislature that looked at this study that thought, wow, 150 judges they're down, and we can't afford it all at one time so we're going to break it up into groups of 50 but this was approved and decided already as absolutely necessary. And then obviously the budget took the skids. But we have to remind them that this is not a luxury here. This was something that was determined that was necessary and needed years ago. And filings have gone up and down in the meantime. I'm not sure if the 350 is still accurate. Maybe it's 320 now. It will not be much different. But the needs have already been approved. It's just getting them there. So again, we need to remind them that this isn't something that was just an addition for us.

>> But it's significant to me that this study was conducted before the census, and having the census show growth in population. And most recent indicators that California's population grew in 2010 and 2011 that was in the paper today discussing the growth. This is a reflection of the growth of the state and the growth of the application in the law that was an access issue and we should once again see that this is an access issue.

>> If there is no further discussion at this time, is there a motion?

>> Moved to approve. Thank you, Judge Brandlin.

>> And Judge Ellsworth. Any further discussion? Not seeing any hands raised, all in favor please say aye.

>> Any opposed? The matter carries.

>> May I make one, Chief? In the *L.A. Times* this morning it reports, just as what you said, that the California population grew by 332,000 people in the last fiscal year.

>> After the census, which already showed explosive growth.

>> That's right. Thank you, Laura, and thank you, Judge So.

>> So Jim if we are not ready -- [ indiscernible - low volume ]

>> Okay. We are going to skip U, then, because we are still ahead of schedule, and call item X, the Family Law: Final Report of the Elkins Family Law Implementation Task Force (action item). We welcome Justice Laurie Zelon, chair of that task force, to the podium. This is X.

>> Good morning, everyone. Thank you for allowing me to come here. It's kind of a bittersweet day for me. We have been at this for a while. And I want to spend just a few minutes with you telling you where we have been, where we are, and where we are going with Elkins. I want to first say what an honor it has been to be entrusted with this project. Family law touches more of the users of our courts than almost anything else. And it's also an area where the users of our courts increasingly find themselves alone in court.

So working to make the system work for them has been a privilege. And along the way I was thrilled to have working with me first 39 other lawyers, judges, and administrators and then 19 others as we moved into the implementation phase. All of them were very talented and very dedicated. I was a little bit concerned at the beginning that we had bitten off way more than we could possibly chew, but happy at the end with what we'd digested.

The good news for the day, the best news for the day, is that the implementation committee has accomplished most of the recommendations of the report. That is, they are in place, the courts are implementing them, education is going forward. This is not to say that work in those areas will cease because there is ongoing education, ongoing thought, and hopefully if the Legislature keeps its promise, ongoing innovation in family law with funding to do pilot projects and test methods. So let's look back for a minute at where we started. We have been at this for almost six years starting with the very simple premise that the family law courts should serve the needs of California's wives, husbands, and children and that they were entitled to due process when they came to court.

Our family law judges and staff have been carrying an enormous load for many years, and they have been significantly under resourced and continue to be significantly under resourced. The litigants, a significant majority of whom have no lawyers, face confusing procedures, difficulty in getting time in court, and very long delays. They were frustrated. They were unhappy. And so were the judges. This as an assignment in which a majority of California litigants form their impressions of the courts and in which too many view it as unfavored and even a punitive

assignment. And that's just backwards. That's where we need our best and our brightest to meet the needs of the families.

So two years into our happy task to renovate California's family law, the dial turned again, and the needs got bigger and the resources got smaller. So we focused on looking for commonsense solutions to streamline the process, to make it easier to understand, and mostly to make it more efficient. We sought to respond to the issues that stakeholders had raised with us, to look at why the courts had been placed in the position of wasting time because their trials were fragmented, because there were so many continuances, and because people came to court unready to proceed. We sought to identify changes that don't cost money but do save time and do decrease workloads so that the courts could leverage the resources that they had for family law. And we looked to see where the interests of the courts and the public were the same and operated on the theory (1) if we could make the process better for the litigants, it would make it better for the courts; and (2) if the process were better for unrepresented, it would be better for those with lawyers as well. As I said, many of the recommendations have now been adopted and the courts have with open arms embraced the changes. And some of them represent huge steps towards the goal of really changing family law. One of them is caseload management. We are little early and I don't know if our video is queued up.

>> Yes. Signal from the booth.

>> Okay. So Judge Nystrom-Geist could not be with us today. But she said some comments that I would like to share with you on the case management issue.

>> Thank you so much for the opportunity to talk to you today. I so appreciate the opportunity to address the council. I'd like to talk a little bit about case management and family law and what it has meant to me to be a part of it. I have a unique perspective of case management and family law. I'm not sure if anybody else has had exactly these experiences but my first exposure to case management and family law was as a member of the Elkins Task Force. The idea actually arose from Elkins. As Elkins finished and we began the Elkins Implementation Task Force, I am also serving the role as cochair of the Family and Juvenile Law Advisory Committee to the Judicial Council. So wearing those two hats, we started working on the rule of court, which the council eventually approved and is now rule of court 5.83. The third hat I wear is as supervising family law judge in Fresno, which means it was my responsibility to head the team. I certainly did not do the work all by myself but to head the team as we try to find a way to make rule of court 5.83 a reality in our county. And sadly that hit right as our resources were greatly reduced. As I think most of you know, family law has never been adequately resourced; nor have the courts. And so to take our already dwindling resources and to make them even smaller at a time when a great burden is placed on the family court—it was difficult to deal with. Part of how we approached it in Fresno was to ask for help. We have gotten unbelievable support from the Center for Families, Children & the Courts. A team came out, they helped us, they helped us draft our rule, they helped us with ideas. Particularly helpful has been Deborah Chase because Deborah is very in

tune with case management. She has the benefit of 58 counties' experience. And everyone—Julia Weber, Deborah Chase, Bonnie Hough, Deana Piazza—they have all offered us so many important views of a statewide level that helped us in our own county in Fresno. The fourth hat that I get to wear regarding case management is as the judge who actually does it. The calendar is amazing. Out of the four different hats I've been able to wear, the four different perspectives I have had of case management, my favorite is in the courtroom because what I see the court room is the same thing that family law judges know everywhere. These are mostly nice people; these are mostly people who would do the work if they just knew how. I don't think I have asked anybody, Would you like to finish your case today?, and had them tell me no. People are eager to do the work. It's a calendar that is very valuable to the attorneys because it helps them keep their cases on track. It is probably more valuable to the self-represented. Different people have different statistics. For the most part we think it runs about 80 percent self-represented in family law. These are people who don't know what they're doing. Their lives are falling apart, and they have no idea how to make it better. It is a great feeling, as the judge who is really there on the ground level, to look at them and say, How can we help you today? We are here to help you finish your case. I thank you again for the opportunity. Case management is working so, so well from each of the perspectives I have had the privilege to have. Thank you again.

>> Judge Nystrom-Geist, and I'm not telling this story out of school, was one of the people who saw early on the great value of case management. Just to remind you, family law judges were not allowed to do case management unless the parties agreed. So it was the only area in the courts where the judge could not manage the case. She saw the importance of it and she was worried because she was actually on the ground trying to run a court and she said, I don't know if I can do it. I know it's a good idea, but I don't know if I can do it. And with the help that she got, which is just the best example of the branch working together to help itself and to help the people it serves, she got it done and she is now the biggest cheerleader for case management in the state, which is why I wanted you to have an opportunity from hear from her today. Another area that I really want to talk about that I think is very significant is live testimony. The *Elkins* case arose because Mr. Elkins came to court and he could not present his case because the court rules said everything had to be presented by declaration ahead of time. And he was representing himself and he didn't know how to do it and he did not know he had to do it. So he wasn't heard. And that was the genesis of how all of this started. So, the opportunity for people to come to court to testify, to tell their story to the court and to have the court consider what they have to say before it makes a ruling on their resources and their housing and most importantly their children is a critical value for our democracy and for our courts. We are so pleased that the Legislature adopted our recommendation and that the council adopted the rules of court to make it comparable to allow people to come to court and to be heard directly in family law.

For the future looking forward, data is going to be critical. I have heard enough of your discussion this morning, just enough to know that you already know that data is what we need. We need to be able to justify what we are asking for, to see what is working, to make it more

efficient, and to see what the true impact of changes on workload. Deana Piazza on the staff, and she just walked in—timing is everything—has been working on dashboard measures to allow courts to see what is going on and has been working with the Office of Court Research to measure the workload and to measure effective processes and outcomes. This is critical going forward. It is what is going to make the difference in helping courts allocate their resources and helping us all advocate for sufficient resources for the court to be able to assure the Legislature that the resources are being used properly and for the litigants. This is part of the work that we are recommending go forward to the Access and Fairness Advisory Committee and to the Family and Juvenile committee. Those are the two committees that are best placed to take the recommendations that have not yet been completed, to take the ongoing work and to look to the future. And trust me, I am not going to go through the detail of which of the 200 recommendations goes where. It is in the report and I hope that you will agree with us that those committees are best suited to take on the work. They have both agreed to take on that work. Judge Stout is here. Judge Nystrom-Geist has agreed. I had the opportunity to agree with myself as the chair of the Access and Fairness. [ laughter ] So I am confident that that work will go forward. But the most important and critical unfinished work is the unfinished business of how we as a court system view family law and how we meet the needs of the families that come to us for help. As I said earlier, it is a priority area for litigants, and yet, too often you hear it discussed as the disfavored assignment. We talked a lot in the report about changing the conversation, about raising the status of family law, about making sure that everyone understands what a great assignment it is because of the work that the judges there get to do. And, in looking at how to reallocate that work, it occurred to those of us on the committee that it was the council and the PJs who we were going to have to ask to take on that work: the PJs because they make the assignments on the ground and the council because the council provides the leadership to the rest of the branch to which will all look for help and guidance. So it is the council and the PJs who I think will make the greatest difference to look at the priority we give in allocating resources for education, to look at the priority for assignments, to find ways to make the judges who take on the family law assignments feel truly valued by their courts and appreciated and honored by their peers, and to allocate resources to follow the workload so that the family law judges are not the only judges leaving the parking lot late at night with boxes of documents in their cars to go home and do the work to get ready for the next day. And resources in family law actually go well beyond the bench officers. It includes family law services. It includes mediation services, which have been cut back in the downturn in many courts. It includes information for litigants, and it very much includes self-help. Part of what Judge Nystrom-Geist wanted to talk about was the fact that the reason her case management calendar works as well as it does is because she works with the self-help center, and they come in and work with the litigants as they're coming and as they're going to help them get ready for the hearing they have and to get ready for next steps in the process. That is critical and we must continue to support that.

So I will close, although I am happy to take questions, by telling you again how grateful I am to have been offered the opportunity to have a hand in this effort. I was a nerd, you're not surprised,



I was a real nerd in high school. Probably still am. And I was in the band, and I played an instrument and it always occurred to me that I at home practicing every day and I was out there on the field everyday practicing the marching, and there was one guy who never had to practice. That was the guy at the front with the baton. He got all of the credit, he looked great, he marched at the front of the band and he was not practicing every day. So I always wanted to be the guy out in front. This is my opportunity to be the person in front. And I'm grateful for that as a former band nerd. [ laughter ] But more importantly and more seriously, I got to work with truly talented and dedicated people who made this go. Both all of the members of the task forces and the extraordinary staff who supported this work. Some of them are here today and I would like them to stand so that you can see some of the people who made this work: Julia Weber, and Diane Nunn, who is the head of CFCC and is not standing.

>> Could you actually keep them standing because we applauded but we would like to also hear the names also.

>> Julia Weber, Debra Chase. Deana Farole, and actually went through my own divorce process. [ laughter ]

>> Gabrielle Selden also worked on it, and of course Bonnie Hough, who we have seen many times, who is now on an airplane going to the Galapagos. I don't know how she could pass up being here today but she's going to the Galapagos. Anyway, for those who are not here, I know that they appreciate the gratitude of this council and they certainly the gratitude from me. And finally I want to thank the council, not only for starting and supporting this effort over these six long years and I was reminded yesterday that Chief Justice George, the former Chief, used to call people out in the hall and say, I've got a project for you. It'll take three years. That is what they told me, too. But it was a privilege to do it. But I really finally want to thank the council for the commitment to the work and the commitment to make it go forward and to complete it for the benefit of those who come to court every day in California. Thank you.

>> Thank you, Justice Zelon. We have some hands raised. Justice Miller and Justice Baxter.

>> Chief, I don't have any questions because as always you are thorough and do just an excellent job. I want to commend you and your committee but especially you for really what is incredibly important work and historic and how well you have accomplished it. And like yesterday at our awards ceremony, you sometimes forget how much the work touches other people and how important it is and how significant it is, and so you should be commended for that because it does touch many millions of people, and you have done a great job in that regards. And I want to assure you that the council will not let it linger in any way. We have started conversations already—Judge Ellsworth has been a part of those, Judge Dean Stout—and we will continue those and we will make sure there is a process and all of this work is assigned out and those tasks are completed and new ones begin the process and are accomplished. So thank you very much.

>> Thank you. Judge Baxter?

>> I join in the commendation, but I also want to provide a little bit of background because I think that the success of this task force really illustrates how the council can be successful on a variety of issues. In the *Elkins* case, as has been noted, the briefing in *Elkins* did not mention anything about a task force or anything of that sort. It involved a litigant. And I will never forget, and I'm not going to tell stories out of school, but I will say that at the post-argument conference following the argument in *Elkins*, the members of the court. That is when the issue of—to solve this problem, we need more than a judgment of the court in *Elkins*. There is a need for additional work to be done.

As a result, the Chief Justice's opinion as I recall actually created an Elkins Task Force. Of course it went to the council, and we have seen exactly the success of the entire process. So I say that—in this case, the spark came from the court itself. In other instances, the spark can come from an educational meeting where an issue is brought before the council. The spark may come from a liaison meeting held in the Chief's office. The spark may come from just simply a suggestion that any member of the council might make. So in addition to commending Justice Zelon or everyone involved in this particular task force, I just want to highlight that this is a great example of how a major project can be started and completed. Thank you.

>> Thank you, Justice Baxter. Commissioner Alexander.

>> I was lucky enough to be on both of these task forces and there are a bunch of people that need to be thanked. Justice Zelon was absolutely wonderful and though family law was not her area of expertise, she had the vision to say we needed to look at what the litigants need. And what the litigants need is going to back up to say what court needs and with the actual people working in the courts need. So she focused on what was needed by those people coming to the court and it was a brilliant way to look at it. I think we also need to thank the Assembly Judiciary Committee. They were great in having one of their members. Drew was on our task force, and once we had our 200 recommendations, they went through those and picked out the ones that were not going to cost money but needed legislation and immediately jumped in, proposed the legislation, and got it passed, which gave us a way to run with the recommendations.

The local courts were absolutely wonderful in providing subject-matter experts. Hours of time were provided by volunteers from staff and local courts to be able to devise methods of how to implement these recommendations. And an example is we did a judgment checklist that I don't know how many meetings there were of staff from different courts to figure out—everybody was doing it differently; how can we do it the same? What is actually needed, and what's the best practice?

As the Justice Zelon has said, Diana Nunn and her staff at CFCC have worked tirelessly to implement I would say over 70 to 80 percent of 200 recommendations in a three-year period that require rules, forms, and legislation is miraculous. There was pushback, I remember, from RUPRO about how family law was putting in too many suggestions and too many forms and too

many rules and it was overwhelming everybody. But it needed to be done in it got done and everybody worked together to do that. The fact that almost all of them were passed by consent says something about how much everybody worked on them, worked out all the glitches, attended to all the public comment, we were able to get those through. The task force members themselves were tireless. They had meetings once or twice and they divided into four groups and each of those groups met once a week by conference calls, generally at 4:30 on their own time, to work out the details and do planning and to make policy. It was just an unbelievable working group of people that were very dedicated. Now it is primarily moving to the local courts where the implementation has to be done at the local level and some of the members—some of the things that have not been done—are still working on those things. They have decided to do them as local pilots. Hopefully those can be successful and other courts can benefit from them. But many of the task force members are not ending. In fact the last task force meeting was after the task force ended, was the last conference call was even after technically the task force was finished. So I hope the local level picks it up. I hope that the PJs pay attention and listen to what the recommendations are and work at the same effort level that the task force did to get them implemented at the local level.

>> Thank you, Commissioner Alexander. Judge Stout?

>> Thank you, Chief. I just wanted to join in the complements and praise that is so well deserved by Justice Zelon and the members of the task force and of course tireless efforts of the AOC staff, which truly always do a remarkable job, and this is just a prime example. I do want to say that Justice Zelon was more than just out front with the baton of the band. She was a tremendous leader with great eloquence and grace and poise. But she was also in the trenches and making this happen. And she was there marching in the band and it was just a tremendous achievement. I also really want to echo Justice Zelon's comments about prioritizing our limited resources, the need for allocation of resources to, I will add, juvenile court as well as the family court, while I have that opportunity, but it so critical and I want to join in and echo those comments. I'm confident is former cochair of FamJuv Committee and dialogue with Judge Nystrom-Geist and now Judge Borack from Sacramento who succeeded me. They are well prepared and up to the task of taking on the responsibility of completing the remaining implementation tasks as recommended by Justice Zelon. At the appropriate time, I would be honored to move adoption of with the recommendations.

>> Okay, thank you. Judge Stout moves, Judge McCabe seconds, as well as Judge Ellsworth. I just wanted to add in the comments made today I think the work of the task force, the work of the implementation task force as well, is a spectacular example of volunteerism in the branch by leaders at the branch level, at the bench level, at the attorney level, at the AOC level in terms of really giving selflessly for procedural fairness and access. It is a legacy to the public and families and children. And as the Justice Miller has already indicated, the work will carry on and there will be continuing reassessments to improve the work and the foundation that these task forces have created. I especially appreciated Commissioner Alexander, too, her addition to your history,

Justice Zelon, because when you summarize it that way it just sounds so simple. But the fact that it took years and as you mentioned what you have done, all of us here who worked on some aspect of a task force or an advisory committee knows that it is arduous work. But it is work dedicated to the public good. So thank you very much.

>> Thank you. I must say, to be fair when we started the task force and had our first meeting, we had it over pizza, I think, and all talked about what we wanted to accomplish. I warned people that I was very mean and a very strict task master. And at one point during the process I did suggest that we all go out and run a 10K together. That was the only time they voted me down. [ laughter ]

It was a tremendous opportunity. I think I can speak for everyone who was involved in this effort in saying we are all willing to continue to work with the council in whatever way we can to make this effort go forward. And I thank you again.

>> Thank you, Justice Zelon. Judge Walsh.

>> Chief, if I may, the invitation as I heard it is would the PJs listen, and I am sure they will. I think that since some of this is also about operations, perhaps CEAC will join me and we could work on a presentation at one of our meetings coming up. And back to the PJs, –and I know they’ll be receptive, not only because they want to do the right thing but most of them, like me, have been in family court, took those buckets home late at night, were bleary-eyed, a little envious of those empty parking stalls at 5 PM of our colleagues, and know that expanding resources for family is important. We have suffered it as the judicial officers, but we have also seen being on the family level bench. There is no decision I ever made as a superior court judge that is more important than the decisions that I made in family law every day. Nothing more important! So we as a branch owe it all of our intention; we as PJs owe it all of our attention, and we’ll follow up on that.

>> Thank you, Judge Walsh.

>> [ applause ]

>> Thank you, Justice Zelon. All in favor of the recommendations please say aye. Any opposed? Recommendations matter carry. Thank you, again. Thank you very much.

>> Again we are still ahead of the time indicated. We will hear item U: Status Report From the Technology Planning Task Force. This is not an action item.

>> Chief, members of the council, it is my pleasure this morning, along with the Tech Committee’s vice-chair, Judge De Alba, Rob Oyung, to give us the short thumbnail update on the progress of the Technology Planning Task Force. And Chief, I want to thank you and the council as well for back in February of last year authorizing this particular task force. I would

like to introduce the council to Rob Oyung, who is appearing today in analog format. My notes had more than a slight chuckle. I thought that was pretty good.

Anyways, Rob, I just have to say, is just extraordinary in terms of his energy with being the lead on this task force. His background in tech is both the private sector and government work, and I much appreciate Santa Clara where he is CIO, Dave Yamasaki lending his efforts to this work and he has put a tremendous amount of effort in it. He not only has a technical background, but also a background in planning and project management. So he has been the perfect choice in terms of heading this effort, which is much appreciated, as well as the effort of the three track leads, Bryant Coda from Fresno; Jake Chatters, CEO in Placer County; and Judge Marsha Slough, who is heading the funding track over in San Bernardino. At any rate, of course, the direction of the council and the Chief relative to the task force was to work in collaboration with courts. We want to emphasize that what we are building as part of this task force effort is an IT community that combines the efforts of ITSO, the Information Technology Services Office, the council through the Tech Committee, a reconstituted Information Technology Advisory Group, as well as the efforts at the trial court level with the CEOs, CIOs, and appellate courts of review. So with that, then we will talk a little bit about roles and responsibilities. Judge De Alba.

>> Chief, members of the council, as you have heard, the Chief authorized the creation of the Technology Planning Task Force earlier in the year and the task force broke up and worked in what is referred to as three work streams. And as you heard Judge Herman describe, chaired by the CIO, CTOs, and the judge, the work streams were very unique in that they were different from prior efforts that the council has directed in that the committees were populated largely by people and representatives of the trial courts: Judges, of course lawyers, information officers and technology officers, staff from the AOC. The three work streams broke up and took charge of three different areas. One was to develop a proposal for governance of how technology in the branch would be developed as far as the governance structure.

A second work stream that addressed issues related to the strategy of how to deploy and implement tactically a plan for technology. And then thirdly, and critically, funding. The work streams are developing these various proposals that will come before the council. I'm sure Judge Herman will speak to that a little bit later.

As you can see from the PowerPoint in front of you, the council's Judicial Technology Committee, which Judge Herman chairs and I sit on, along with other various members of the council, we oversee in turn the work of the planning task force and advisory committees. In the end, again, I want to compliment Rob Oyung, who we will hear from in a moment, on his foresight, his advice, and his assistance in developing these various work streams. And as you heard Judge Herman say, what is different at least in my view about the effort thus far is this development of an "IT community" that involves and relies very heavily upon the resources and representatives of the trial courts.

>> So, with this amazing group, well-supported by ITSO, by Mark Desmond and his group, really is a collaborative group, which is at the direction of the council it pointed us towards. In addition to the 20 members of the task force itself, the task force reached out to an additional 22–24 were configured for other subject-matter experts to assist us so far in what we have accomplished and we wanted to say specifically where we are at this point. Where we are at this point is we have a draft executive summary of all three tracks: the funding tax, the governance track, and the strategic and tactical planning track. We have already reached out in order to make sure that we are moving in the right direction. We have reached out to the CEOs and PJs at three regional meetings held in Sacramento, San Francisco, and down in San Bernardino. Judge De Alba, on behalf of the Interim Judicial Council Technology Committee, attended the San Francisco meeting. I attended and participated both in San Francisco and San Bernardino. And the feedback that we got was very positive from CEOs and from PJs, with a number of recommendations that we have already included in terms of our go-forward product. So terms of timeline, we're providing this brief update the council today. We will present updated proposals to the Judicial Council in January. Then we will go out for general public, to the general public comment period, coming back to submit the final proposal to the Judicial Council for approval at our June meeting. And our attendance at all three regionals, by the way, was pretty robust: we had 52 attendees in Sacramento, 37 in San Bernardino, and 40 in San Francisco.

>> Judge, might I just say that at the various meetings, not only was it the PJs and CEOs, but the information technology officers were also invited and attended and it was an excellent opportunity to have kind of a cross-pollination discussion about the branch's plan for technology. So the Genesis of the task force was the summit that we held back in October of 2012 and we got pretty firm persuasive input from Caltech, from the California Department of Technology, that said okay, fine, you want funding for technology? If you are going have funding for technology, then we need to see a mature technology strategic and tactical plan and governance structure, which is basically what we have been working on starting at about March of last year. And again, in order to make sure that we were moving on the right track in October of this year, we met with various representatives from the executive and from the legislative branch.

>> The meeting Judge Herman's referring to was earlier this year, early October in Sacramento. There was an impressive number of representatives from the Legislative Analyst's Office, from the Department of Finance, from the California Department of Technology, as well as legislative staffers, representatives from the Speaker's office and of course from the Pro Tem's office. Judge Herman and I were there. We were joined by Mark Dusman and some of his staff, Curt Soderlund of course was there, and it all was coordinated by the Office of Governmental Affairs, Cory Jasperson's office. Rob presented a fabulous presentation to the folks that were in the room with us, and of course the purpose was to preview to those interested parties in Sacramento the branch's movement and development as Judge Herman says of a mature decisionmaking process within our own branch so as to maybe develop a little bit of credibility and good will with our sister branches in Sacramento. So overall, at the conclusion of the meeting, we had opportunity

of course to interact with the various representatives from these various offices, and I think it is fair to say that we all walked away with a very, very positive feeling of the reaction and the impression that was made at that particular meeting.

>> With that, Rob, could you give us an update on the progress in the various tracks?

>> Yes, absolutely. So first I'd like to thank Judge Herman and David Yamasaki for the opportunity to act as the program manager for this very important task force. It is my privilege today to provide you with an update on the three areas that Judge De Alba mentioned: IT governance, the strategic plan, and funding. So for the governance area, this is the area where we are looking at models for how we will structure the management of IT projects in making decisions there. As Judge Herman discussed, one important factor is working as an IT community, primarily so that we can ensure that we have broad support for branchwide initiatives and leverage the resources we have across the branch. We are actually using this concept of working as an IT community within the task force. So although there are 14 task force members formally, we have reached out into the branch both at the appellate court level as well as the trial court level and have about 41 people participating overall and contributing their subject-matter expertise to creating this strategic plan.

So in terms of working with the IT community, we are looking at a structure where the Technology Committee provides branchwide oversight and prioritization and coordination of IT initiatives. Judge Herman talked a little bit of the refocusing of the Court Technology Advisory Committee, or CTAC. Where today it primarily focuses on rules and facilitating legislation, we see that it is very important moving forward with a very focused strategic plan that we have CTAC help to facilitate technology projects as well. Finally, and the governance area, we are looking at a model for categorizing branchwide initiatives from the statewide level, all the way down to the local level, because we recognize that there will be different governance and different management models for those programs that are at the branch-wide level and for those programs that are at the local court level, which will be under the responsibility of the local court. We also recognize that there is an opportunity for courts to act in consortium as well. So that is also built into the model.

The second area is the area of the strategic plan itself. So, the strategic plan focuses on those technical programs that the branch will focus on to achieve its overall goals. The task force will be recommending four major strategic goals to align the branch on this idea of a digital court. The idea of the digital court is to really improve access to justice and to provide efficiencies through the use of technologies. That is the primary goal. We will have two other goals that will focus on optimizing resources and technical infrastructure and then another goal focused on the modernization of rules and legislation to support the use of technology.

Underneath those four major goals, there will be individual tactical initiatives and projects that will help the branch reach its vision of the digital court. We will have sometimes conflicting

priorities, and sometimes we will have more work than we can accomplish and less funding to do that work. So, we will need to have a tool to prioritize those top priorities. So what we will be proposing is to utilize an analytical and transparent process that we're leveraging from the industry actually. This is a practice and a model that is used both in the private and the public sectors for evaluating technology proposals, looking at risk, mitigating that risk, and evaluating the return on investment as well. I think Judge Herman talked a little bit in the morning about a BCP that would be brought to the council, and this tool is being used to prioritize the requests in that BCP.

>> Yes, Mr. Oyung, is right. This is the prioritization tool that I spoke about yesterday that we used within JCTC to select the six courts to go forward with the BCP. It is difficult to see on this particular PowerPoint slide, but it really is a pretty robust tool that numerically allows us to evaluate projects, not be the total decision maker, but to give us a more databased approach to our decisionmaking.

>> And then finally, the last area that the task force will be making proposals on is in the area of funding. So, similar to the way that there will be a model to look at technology initiatives and categorizing technology initiatives, there will be a model for looking at different types of technology funding. So, we will have categories for funding for branchwide initiatives as well as for ongoing maintenance and for innovation. There will be in this model a delineation of how those funds would be allocated and managed. So, for example, branchwide initiatives and particularly ongoing branchwide standards and protocols would be managed at the branch level whereas things like routine upgrades, intermittent upgrades, and operational costs would be managed at the local level. So we wouldn't have recognized that difference in governance.

The other area that is being recommended will be in an innovation and improvement fund. The idea behind that is to be able to set aside a small amount of money for the branch to experiment and invest in some leading technologies to see if those could provide some benefit in the future to the branch. So with that, those were the three major areas that we will be bringing formal recommendations to you in the January time frame. So I will hand it back to Judge Herman to summarize.

>> Thank you, Rob. I would like to mention that, of course, Justice Ashmann-Gerst has participated in the task force, Mark Dusman has participated, was very deeply involved, and has been very deeply involved in the strategic and tactical planning track, and I think both of them can attest to the amount of work that this task force has put in. It's another group that has been very energetic with weekly meetings, and Jessica Craven from ITSO has been tremendous in keeping that effort and the meetings organized and supported. So I do thank ITSO and AOC staff for all of their support. So expected outcomes: robust structure, roadmap, and process for managing technology initiatives and investments; transparency of how funds are managed and allocated, and of course this fits in with open meeting rule and the general need of the branch to be transparent in its funding efforts; increased credibility for managing public funds and



resources (this is critical in terms of our interface with our sister branches if we are going to achieve what the BSA criticized us for relative to CCMS, and that is having a stable funding source for technology that we can depend upon to improve our e-business efficiencies); consistent availability of services across the court; better accountability for use of resources. And if you add these all together, this really, again, is congruent with the Chief's Access 3-D in terms of remote access and equal access. So again, I want to thank the Chief and the council for giving us this opportunity to move us forward in terms of the branch technology. With that, we'd be glad to answer any questions. Justice Ashmann-Gerst, I think, Chief?

>> Okay, thank you. I just also want to emphasize that in the area of technology, this concept of the task force with work streams has been excellent. It is nimble, it is effective. We are able to include experts in the field as well as other branch representatives and judges. Because as we know, one of the shortcomings of the CCMS was the lack of buy-in, and the task force assures that we have buy-in from all aspects of the participants in the process. The tracks have specific goals, they have specific time frames. As Judge Herman said, we meet at least weekly and we have been for this whole year. Rob, as head of the three tracks, has just done an amazing, outstanding job, and I want to thank you specifically for all of the work that you and the other track leaders have done. I think the council is going to be extremely impressed when we have a final result to show you.

>> Thank you. Judge Rosenberg?

>> Thank you for that. This is really one of the top priorities for trial courts. It has been for a long time. It is a big question mark for trial courts going forward. The devil is in the detail, and you have shown us a roadmap and obviously we are all looking forward to those details coming forward. But I have two questions. Number 1, the use of technology in individual trial courts is critical. But are there going to be plans for interconnectivity between the trial courts and to the justice partners? Or is that something that's on the back burner? That's question 1.

>> I think that is to some degree on the back burner. I will say that in terms of the three vendors that are within the RFP in the standard technology agreements, that there is interconnectivity among particularly Tyler Tech—which seems to have the lead at this point in terms of courts that it has signed up—that there will be interconnectivity there. And there is also technologically—and Rob can address this—there's also technologically the ability again to interface through what we call information exchange backbones in terms of software. But that's probably something that looking at it from an overall branch perspective is something to develop down the road and it's going to require, frankly, the cooperation of the courts. Do courts want to move in that direction? I think some do, and we will see. Rob, do you want to talk about that?

>> Sure. There were also be some foundational work that's going to be recommended as part of the outcome of the task force focused on interoperability, security, and privacy as well across technology platforms. And there will be initiatives to look at connectivity and data exchanges

between the courts as well as between justice partners. So there is a recommendation to launch an initiative to do that work. The task force itself will not be doing individual projects but will be recommending a set of specific projects to move forward with.

>> My second question is, how are we including I think it's called Caltech, the California Technology Department, in this whole process?

>> They have been very deeply involved in encouraging from basically the beginning of this process starting and then October summit meeting. In fact on Caltech, Mary Winkley from Caltech is the one that is kind of like spoke to us during that summit and said look, here's where you have to go and we're technology and we want you to move in this direction. One of the concepts that she's encouraging and you have heard us throw around is consortia. From their experiences with some of the executive branch enterprise, quote unquote, that is, 58 courtwide projects, they kind of came through some of the same struggles that we are coming through—that is, incomplete buy-in with various segments, various counties wanting to do it their own way, and so forth and so on. So what they developed rather than an initiative was statewide enterprise process was the consortium idea were counties would combine in order to take advantage of economies of scale and the returns on investment. And that is already beginning to happen. A number of the courts, for example, and the smaller courts in Northern California have formed a “consortia” where they're going in together with one of the vendors again in order to leverage their collective ability pricing wise as well as technology wise. Some courts are using virtual and physical servers locally; other courts are working with the vendors to use cloud technology in order to support their service. So those coalitions and consortia are beginning to build.

>> If I may add in response to Judge Rosenberg's question about Caltech, we should all be aware and the courts are becoming aware that the California Department of Technology has oversight over all technology projects in the State of California that have a \$5 million threshold. So not only of course would we as a council or the Judicial Council Technology Committee and through the office of the Administrative Office of the Courts, I should say, provide some oversight to our own technology projects, but Caltech statutorily also has that role. And in response to your first comment or question about the importance of case management systems, and the urgency, Chief, you should be aware and members of the council, that at these various regional meetings that we have described, one of the frequent comments or questions from the representatives of the local courts had to do with expenditure of their reserve balances, what remains, that is, investing in case management systems, and they are desperate for guidance as to whether to encumber those funds now or in the immediate future. And I, of course, and I'm sure Judge Herman would say the same, do not know the proper answer to that question. But it was a primary concern.

>> Caltech, by the way, Judge Rosenberg, at the meeting in Sacramento in October, after the meeting they were probably the most complimentary in terms of the process that we've

accomplished. In fact, Caltech said that we cannot believe in this period of time that you have accomplished this much in terms of design within the branch relative to technology. And they're connected with the DOJ in terms of the purse strings. So they are an important ally.

>> I just raise that issue, because I suspect that had Caltech been more involved in our last endeavor, things would not have worked out the way they did. So it is important now to get the state's best experts involved in this endeavor.

>> Justice Miller and then David Kawasaki.

>> I first just wanted to commend Judge Herman and his committee for the effort and the time that they have put into this. This is another of those initiatives that is so important to the branch. And I think we can all feel comfortable with the process that you have gone through and the plan that you have come up with, so I want to commend you for that. I know this is not an action item but I did want to make a motion the Judge Rosenberg doesn't need to raise his hand any more. He can just be the first person called after everyone.

>> [ laughter ] Well I think Justice Ashmann-Gerst beat him to the punch this time because even with that sprained wrist she gets that.

>> Justice Miller's been laying in the weeds for that one.

>> David.

>> Thank you, Chief. If I could just add some other complimentary remarks. We heard earlier today about the importance of hearing from the users and the courts. And in one example, it was the customers that we serve. But in this instance it courts that we try to support and by including them in the process and identifying what the needs are and what the capabilities are, has really helped us to understand where we need to go as a branch. In that process, I have been very privy to some of the discussions that have taken place, but also in the identification of the very, very talented people that we have working around our court. And by working together, it has really supercharged our effort to try to bring our technology needs to where it needs to be and have been very long in being able to achieve. So a huge compliment to the work of your committee, and Judge Herman, and the team that's been assembled, and especially all of the courts that have been participating in this process. I think everyone is extremely pleased with the track that we are headed on, and we've already been able to capitalize on some of those work streams by enabling many of these courts to be able to expedite the contracts that would otherwise take many, many months individually to secure. So great work!

>> Thank you very much. This is really energized the CIOs and the CEOs because they really are—judges to some degree but maybe we're not kings or queens relative to technology—the real subject-matter experts in this arena are the CIO community, our chief information officer,

and the CEO community, both at the courts of review and the trial level and so that community is our future.

>> Thank you and I also want to join in all of the compliments and point out that upon given this task, I think it has moved with incredible speed and efficiency and I know that's because of all the meetings that you have and that I hear about. I also compliment you because you've slowly been able to introduce all of us to a new vocabulary. It's very technical. We get it at the high level but we realize that you are really responsible for bringing us along, and we really are grateful to the judges, and I think especially the staff and the CIOs and the CTOs that really see the vision in this and what it means about access. I heard great things about, well, you, Mr. Oyung, and many others about contributing to this effort to improving the branch. So thank you very much and this has been very helpful. We look forward to the report in the future.  
[ applause ]

>> Next we invite Judge Alksne forward to hear the discussion agenda item V. This is an action item, Judicial Workload Assessment: Updated Workload Data and Allocation of New Judgeships. Welcome.

>> Thank you. Also welcome to Leah Rose Goodwin.

>> We also have Gisele Corrie, who is the manager of Capital Programs Office here for any questions if we get to it.

>> All right, I'm Lorna Alksne, I'm from San Diego, and I'm the chair of this group called the SB 56 Working Group. We need to come up with a new name for it. Did we? Thanks for telling me. [ laughter ] I now chair a group I don't know the name of.

>> I'm not sure if you want to know. [ laughter ]

>> Resource Needs Assessment Advisory Committee.

>> I have to find it and write it down.

>> I'm sure you'll come up with some acronym.

>>We did. JBRNAAC.

>> Is that like Jabberwocky? Okay, so while you are telling me what I'm called, I will give you a little background. I was here last spring and this group that has a name that I don't know did a couple different things and one of them is we look at operational need. And I came here last spring and we talked to you about that. I'm not talking about operational need today. We're talking about judicial need, and I just wanted to make sure that you understood that we are doing something different today. In 2007 when Assembly Bill 159 passed, they gave us 150 judges authorized but not funded, and the first were funded in 2007. This is the second 50 that I'm talking about today that have been authorized but not funded. This is the way it looked, if you

can read that. I can't, but if you could, but the way that these judgeships would have been funded would have been allocated in 2007 using the judicial needs study. And those courts have been told that those would be that judges that they would be given if these positions were funded.

>> What we were tasked to do by E&P is now fast-forward to 2012 when we presented to the council a new judicial needs study, which was adopted by all of you. What would it look like if the council if these positions were funded in the fiscal year 13–14 or 14–15? What would it look like if they used the 2012 judicial needs study? That is the second slide.

What you can see if you can read that is that it'll change who gets judgeships.

Since it is kind of hard to read, I'll tell you exactly what happens. Three courts would receive fewer judgeships but at least one judgeship because their workload has declined absolutely relative to the other courts, and that is Fresno, Sacramento, and Tulare. Six courts that were slated to get judgeships under AB 159 will no longer receive those, and that's Butte, Contra Costa, Del Norte, Madera, Monterey, and Yolo.

>> Judge Alksne? Excuse me for interrupting. For those who are having a hard time reading it is attachment B. B as in boy. Then this under item B.

>> No problem. I did not know that you have that. And then eight courts would remain the same.

>> Did everyone find it?

>> In addition, five courts that were slated to get judgeships under AB 159 would receive more. They'd either receive a +1 or +2. If the updated needs assessment was used, Los Angeles, Orange, Riverside, San Bernardino, and Stanislaus would benefit from that. Or additional courts would get judgeships if the 2012 needs assessment were implemented, and that would be Humboldt, Imperial, Sutter, and Ventura. It is also something that you need to know that the statute takes into consideration the 2007 judicial needs study, so there would need to be a legislative fix to use the 2012 judicial needs study.

We are not talking about the third 50, but I would just add to you to note that courts that would not receive judgeships in the second 50 using the 2012 allocation would actually get a judgeship in the third 50. I know that is down the road but we wanted to make sure that you knew that there would be some additional fluctuation.

>> So the third alternative that we have presented to you today is to use the 2000 -- the alternative one was to use the 2012, alternative two was a hybrid and it's to use the 2012 but it's to grandfather in Contra Costa, who would not get a judgeship in the 2012 model but would have gotten one in 2007, and there were some promises made to go ahead and honor that and to have Contra Costa get the additional judgeship even though the judicial needs study does not show that Contra Costa needs it, to follow along with the promises made in 2007. So we have given you those three options.

>> In addition, our group would suggest that if the legislative fix is made, that in the future it be more general so that the council has the opportunity to use whatever year it wants or allocation that is current rather than having to get a legislative fix if you did choose to go with the 2012. Have the statute read that you could use the most current judicial needs study rather than a specific date and time, as we know the needs of the state will keep changing.

We are open for questions. Those are our three positions for you.

>> Justice Miller?

>> Just so the council knows, E&P requested them to provide us with options, and we gave them the different, in essence, what the options were and allowed them to do the mathematical calculation and not recommendations. Because in essence, that is our role. We just wanted to make sure you had all of the facts so that you could choose which particular option you would like to advance.

>> Judge Rosenberg?

>> The record will reflect that I waited. [ laughter ] Thank you for giving us options. Options are always good. I would like to speak in favor of alternative number three, and that's staying the course with the current allocation. I personally believe that any adjustments should be prospective and would affect the third or fourth set and not retroactive affecting the second or current set. And I just want to give you three reasons why I believe alternative three is the better approach.

First, the courts have relied on this 50-judge allocation since 2008. So there have been five years of reliance and planning. In fact, the only reason those 50 slots were not filled is a funding issue. They were created, approved effective January 1, 2008, and then simply not funded. So the fact that the positions were not filled really has nothing to do with the local courts. No fault of the courts. And I personally think it's unfair to change horses in midstream.

For example, there are a number of courts that have courthouses built or under construction in reliance on the allocation in the second set.

And I note there is a suggestion that we defer that issue out for further study. But that really is putting the cart before the horse. We should probably do the study first. The second reason is, some of the smaller courts would be impacted if we used the 2012 data. I think a small court can be much more severely impacted a larger court. For example, losing 1 judge in a 10- or 11-judge court has a very serious impact versus gaining 1 judge in a court that has 90 or 100 judges. It's just an economy-of-scale situation.

And finally, I would just note that statistical data that we use is based on averaging. It's all cyclical. It frankly changes year to year. What is up today may very well be down tomorrow and vice versa. The 2012 data is based on a time during the fiscal crisis when counties were

downsizing staff, sheriff's deputies staffs were downsized, DAs and public defenders. It's quite possible that underfunded counties were hit the hardest. So those are my thoughts on staying the course. If we are going to make changes, let's do it in the next 50.

>> [ Captioners transitioning ]

>> Justice Miller, Judge Rubin, and Judge Walsh.

>>I regret now having made that motion allowing Judge Rosenberg to speak.

[laughter] I appreciate those comments and I am sure there have been plans made in that regard. I think the nature of what we do is look at the facts and the law that exist currently and that it would be in -- somewhat disingenuous to go to the Legislature to ask for judges to be appointed within the next year based on statistics now that are over five or six years old. I think it is the nature of what judges do and what the nature of what the council does that we should look at the most current statistics. If we were to be asked that by the Legislature, I think we would have a hard time explaining why things are so different now than they were in 2007. Having been from Riverside and having suffered the lack of the appropriate number of judges was all because they didn't give us judges when they should have as the population in that area increased. So, I think we need to stick with what is current. If we don't get the judges this time and we have to redo the work, you are now an advisory committee. I can tell you your name. You will be there to reassess and it may be that they go down and now the other counties that got two more get one less, or something of that nature. I think we have to do what is based upon the current and the most current statistics.

>> Thank you.

>> Judge Ruben?

>> Judge Alksne, can you help us resolve the two different motions from Judge Rosenberg and Justice Miller— not motions but observations. In terms of the time periods covered, is it a 12-month period or was there some effort to look at trends or to even out some of the changes?

>> I will answer that if I may, Judge Ruben.

>> Sure.

>> The 2012 judicial needs assessment is based on a three-year average of filings. The period covered for the 2012 assessment was fiscal year 08/09 through 10/11.

I do want to address also the issue to put to rest any concerns of the small courts. The methodology used to generate the priority ranking list does account for a court's needs in two different ways: absolute need, its number of judges; and also its relative need. A small court that only needs one judge—truthfully, that could be one quarter of the workload in the court. In a large court, one judge may have a very small impact on overall need in the court. Those factors

are accounted for when we put the priority ranking together. Just to assure the smaller courts that those concerns are factored in.

>> Thank you.

>> Then we will hear from Judge Walsh, Judge McCabe, Judge O'Malley, Judge Ellsworth, Commissioner Alexander, and then, Judge Jackson, and I will repeat this again. [laughter]

>> Thank you, Chief. First of all, unfortunately Judge Alksne and Leah Rose Goodwin were not here when we earlier moved them into an advisory committee, along with that motion came a lot of praise for the fine work you have done. I just didn't want you to miss that. So tune in on the website; you can hear all this good stuff about you.

On the WAFM (Workload-based Allocation and Funding Methodology) subcommittee we dealt a lot with moving figures. It was always a problem, particularly since as we studied the filings recently and the decline in some counties, it was clearly economically driven. It is down now but may well go up again as the economy comes back and there are more police on the beat in a certain county and therefore more arrests. More people can afford to hire lawyers, and therefore there are more lawsuits and more divorces.

So this is always going to be a problem with [?] whether it is applied to WAFM or judgeships.

My concern, and I don't know if there is anyone here equipped to tell us, is was the 2007 effort based on some political collaboration or political unity such that certain legislators got together and said we are for that? If we start with new counties, would we have to reconstitute it? Therefore take another two or three years in which case the numbers will change again. So we will always be missing an opportunity. That's one question I have.

The other question I have is there are another 50 judges out there. Is there any chance that some of these courts, let's say Contra Costa, would be on that list? Therefore if we advocate under the 2007 list, it wouldn't be that we were wasting a judge in Contra Costa, they are just getting a little bit ahead of the game. I don't know if either of those are answerable.

>> As to the second part of the question, I don't have the data in front of me, but we did run it for the third 50 to see what would happen, and it could change again with courts getting judgeships.

>> Do we know if, for instance, on that third 50, Contra Costa, who might not now deserve on the second 50—

>> I guess Contra Costa still doesn't need one based on the 2012 judicial needs study.

>> Right now they are showing as having the correct number of judges for their workload. They would not receive a new judgeship even if 150 more were given out. And to address your first one, and there may be other voices in the room who could answer as well, my understanding was



that when the first 50 judgeships were allocated, were authorized, they were funded almost immediately after that. I think when the AB 159 judges were authorized, the sentiment was that the same would happen—was that the funding would come immediately. There was not the expectation of this lag in time. This was somewhat of an anomaly that we have been forced to handle.

>> Thank you.

>> Judge McCabe, then Judge O'Malley.

>> Thank you, Chief. First I join in my colleague from the great County of Yolo in his points. I'll note as a court that's benefited from the legislation, both SB 56 (we received two), AB 159 (we received two), and the projection is that we would receive another two in the last batch. We have educated ourselves on this and tracked this as best we can. I would note that the funding list was issued and published at the time of the enactment—both SB 56 and AB 159. So this branch has presented to the funding sources—the first and second branch—how that money was going to be spent and what counties. So, there is a reliance factor there.

Unknown to what degree, but nonetheless it is there. And I am concerned about that. I'll also note, I really don't have a dog in this fight because my numbers don't change under the 2012 statistic. So it doesn't matter to this court. I am truly as I should be speaking on a statewide perspective.

>> Number two: but for the fiscal crisis, AB 159 50 as previously presented would've been funded and those folks would be sitting on assignment. But for the fiscal crisis, we are here again looking at those 50 and deciding and hoping when they will be funded.

So, I am concerned contrary to earlier comments that we made representations to the first and second branch as to how that money was going to be spent. Now we are altering this. I would tend to say from both a business aspect and a public relations aspect that this be prospectively applied to our third batch, and if there is a motion to adopt the recommendation or option 3, I would second it.

>> Judge O'Malley, then Judge Ellsworth, then Commissioner Alexander.

>> I somewhat have a dog in this fight, but people that may have planned and Contra Costa certainly got a new courthouse in Pittsburgh, and that is why we were promised that additional judgeship—is because that courthouse was planned with that judge. But in the last four years, we have had to make so many changes with how we allocate our workload, where our judges go, and we are now down five commissioners.

That planning kind of doesn't really apply anymore. We have all had to change and adjust. As much as I would love to have a +1, I don't think it's the right thing, even though we are down five commissioners, which probably wasn't accounted for prior, either.

>> And our judges are picking up that load. There are a lot of people on my bench that would love the +1 who wouldn't to share the load that now has been put upon us by losing valuable commissioners.

>> But, we have to apply the facts that are relevant to the situation. My judge would go to Riverside. –Riverside, as you just heard earlier this morning, is down 100. You kind of put that in the formula and my +1 seems a little bit selfish if I want to keep that. So, I understand how nice it would be to go prospectively but when you really look inside yourself and what the right thing to do is, that is not the right thing.

As much as I would love one, we have to look at the needs of our courts statewide and the more current stats are what we need. Are these probably going to be the numbers when we get the money? No. Any of you really think that these will be the numbers when we get the money for this 50? No. My only concern, what the alternatives are—and Judge Alksne intimated to this—is that if we do get legislation, it needs to be more broad. It needs to allow us, so that we can, when the time comes, apply the valid numbers and put the judgeships where they are most appropriate. Whether we should have a new list that again later is going to have to be revised, which inevitably will probably happen—again, a waste of our time and a waste of the legislators' time. Maybe there should be a motion incorporating Judge Alksne's concerns that it should be whatever the newest numbers are that are most relevant to the situation: those should be the numbers that this body accepts and adopts because that's really what will be needed at the time and that is not the easy thing to do, and for those of us that have to go back to our courts who were getting judges and may now be losing judges, it is the right thing to do.

>> Judge Ellsworth and Commissioner Alexander.

>> I certainly appreciate your comments. I think that that is in the spirit of what the group that just finished really wrestling with our funding methodology did things. Certainly, Riverside wins no matter what. Whether they get seven or nine—anything like that. Inland Empire wins. But I think when we make our determination here, we have to do it in a spirit of doing the right thing and not doing it based on promises that someone made somewhere in the past or the notion that people have planned certain things. All of us have tales and stories of commissioners that are gone or courtrooms that sit empty or new buildings that are only half filled or not filled at all. All of us have needs—small and large courts—and trying to figure this out has been the task of Judge Alksne's group. I know her and I know she takes things very seriously and has really labored over this. When we make our decision, whatever it is, we have to remember that our whole vision has been over the Chief's time here of making things right and to disband some of the inequities that we have control over. We don't have control over a lot of things. We don't have control over how much money they give us. We don't have control over so many things. But what we do have control over is what Judge O'Malley has just spoken of—the spirit of righting our ship, just like they did with that funding methodology when Orange County and Judge Walsh over here was a great leader. I think we all have needs, and I would be remiss—you

know I am from Riverside, you know what we are dealing with—but it is not about Riverside or the Inland Empire. It is about trying to make things not a promise or a passed whisper or a handshake or whatever. It is looking at current things and being equitable. That is what our Governor's office has asked us to do as well. Thank you.

>> Commissioner Alexander, Judge Jackson, then Justice Hull.

>> One of the things I think is that once the judge gets appointed to a particular court, that doesn't change. We don't have a process for moving somebody from one court to another. So, the numbers are always going to change. What is true now may not be true three years from now. It may not be true when the budget comes through. Whoever gets that judge is going to keep that judge, whether the workload goes down or up. There is a disparity that's already in the system where some counties have more than they need, some counties have less than they need, and we have no method to try to balance that out within our own ranks. My guess is that part of this is what is best to get convinced to get the funding done. I am not sure which argument that is. To get the funding so we have them and to do a proposal that this body decides where they go as opposed to the Legislature deciding where they go is the best thing we can come up with. Otherwise, we're going to have this every time it happens. Because we are never going to be able to shift a judge from a county that has more than the workload says to a county that has less than the workload says. Once that is appointed, that stays in that county forever.

>> Thank you. Judge Jackson, Justice Hull, and then Judge Jacobson.

>> No, I don't have to say anything.

>> Justice Hull, Judge Jacobson, Judge Rubin.

>> Thank you, Chief. I appreciate all of the comments we have had on this subject so far. They are all thoughtful. My concern in part is that, number one, the numbers are never going to be static. They are always going to be fluid for many factors that Leah and Judge Alksne are well aware of. I don't know exactly when we say these are the right numbers, but these are the numbers we have. They are studied and thought out. I do have a concern that if we are seen by the Legislature as assigning judges to counties who under these numbers do not have the assessed need for those judges, that the accusation that we hear so often and I think in the vast majority of cases is one that cannot be supported, but the accusation is that once again we are mishandling the—and forgive the word—assets when it comes to judgeships, but we are mishandling our assets by allocating judges to courts who under the best numbers that we the branch can come up with do not need those judgeships. This is of great concern to me.

>> Judge Jacobson, Judge Rubin, then Jim Fox.

>> I appreciate this discussion. I am going to speak with a motion to accept alternative 1 with a modification that on an ongoing basis we accept the most current data available.

>> I second that.

>> One moment.

>> I heard the first second by Justice Miller and then the louder one by Judge Ellsworth, and I heard one by Jim Fox.

>> A point of clarification, Chief. To the maker of the motion, does that mean that most recent data—would that include that once these are funded that then we go back and have the committee do as a that time a re-analysis?

>> What I had in mind is that if we were asking for the money today, it would be the 2012 data. It may be that if we're asking for the money in the next fiscal year, we have more current data. We should always be using the most current data.

>> And I recognize it's a three-year cycle, ending in 11, so if I understood that —

>> We do it every even year. So we will be presenting it again to the council—the 2014 numbers would be the next numbers that we will have.

>> Okay. Thank you.

>> Thank you.

>> Any further discussion? I know there were other people to be heard. Judge Rubin? And then Judge Rosenberg.

>> I guess I share Justice Hull's comments, but I thought that Judge McCabe had an observation. I was wondering if as part of this ongoing effort there wasn't going to be some energy put into reaching out to the Legislature to let them know, to the extent that anybody from 07 has survived until now, let them know that while we made these representations to them six years ago, things have changed on the ground. We are not doing a bait and switch; there is a rational reason for doing this, and explain that to them so that we don't get kinda whip-sawed the way Judge McCabe is anticipating.

>> I don't want to speak for Judge So, PCLC, but I know that in our discussions, what you said is exactly true. That is what they would do in the proposed legislation.

>> Thank you. Judge Rosenberg?

>> I would like to make a substitute motion that we approve alternative number 3.

>> Is there a second?

>> McCabe—second.

>> Hearing the substitute motion first?

>> Yes.

>> To adopt alternative number 3 on page 2 of the recommendations.

>> I will do a roll call vote right off the bat.

>> The substitute motion is to retain the 2007 allocation list as the basis for allocating the second 50 judgeships.

>> Roll call of the voting members – Justice Ashmann-Gerst?

>> No.

>> Judge Baker?

>> No.

>> Justice Baxter?

>> No.

>> Mr. Bonino?

>> No.

>> Judge Brandlin?

>> No.

>> Ms. Davis? [reply inaudible]

>> Judge De Alba?

>> Yes.

>> Judge Elias?

>> No.

>> Judge Ellsworth?

>> No.

>> Mr. Fox?

>> No.

>> Justice Hull?

>> No.

>> Judge Jackson?

>> No.

>> Justice Miller?

>> No.

>> Judge O'Malley?

>> No.

>> Mr. Robinson?

>> No.

>> Judge Rosenberg?

>> Yes.

>> Judge Rubin?

>> [indiscernible]

>> Judge Stout?

>> No.

>> The motion is defeated.

>> Hearing, then, the motion as amended, alternative 1. I understand the amendment to be that in the future to use current—the most recent data for the allocation list, for the allocation of new judgeships.

>> We will also do a roll call.

>> Alternative 1 as amended—

>> Alternative 1 as amended reads, Adopt the allocation list based on the 2012 needs assessment and on ongoing basis except most current data available.

>> Don't put them together anymore.

>> Judge Baker?

>> Can we have further discussion on that amendment?

>> Yes.

>> I have some concern. I agree in principle with the motion and the acceptance of alternative 1, but I have some concern about the amendment as being potentially ambiguous. I think some of the comments may have addressed that. I can see where once the funding is made available, the amendment as currently stated may create some controversy. It may cause courts to demand the most current information available. I'm wondering if the amendment should be more specific to us to indicate, for example, something like the most recent judicial needs assessment. I don't know how regularly [indiscernible]

>> Every other year.

>> If I may respond? I think that, Judge Jahr, with all respect, you misstated my amendment. I did not use the term 2012 statistics, but rather, to make the ask with the most current data available and to do that on an ongoing basis.

>> Adding "from the needs assessment study."

>> Okay.

>> So alternative 1 means—"Adopt the allocation list based on the" delete 2012 and substitute "the most recent workload assessment."

>> Yes.

>> Whatever that is.

>> Yes.

>> If I could add some language to make it easier -- so we don't get requests to do some quick calculations, could you add "the most recently *approved* judicial needs study by the council"?

>> Thank you.

>> Then we know that it is done rather than in the middle.

>> Yes.

>> [laughter] I will make that a friendly amendment.

>> And Judge Alksne, you do it every other year, right?

>> Yes.

>> And it goes back three years.

>> To ensure I have it right, do I correctly understand that the language should be for the amended alternative 1, “Adopt the allocation list based on the most recently approved needs assessment? Or do we need to have other or different language to ensure that the intention—

>> By the Judicial Council.

>> And it’s “judicial needs assessment.”

>> All right.

>> Welcome to oral amendments.

>> Okay, all right, “Adopt the allocation list based on the Judicial Council’s most recently approved judicial needs assessment.”

>> Perfect.

>> That’s exactly what I said.

>> [laughter] All right, then. So we will take a roll call vote. The alternative number one, as amended, reads: Adopt the allocation list based on the Judicial Council’s most recently approved judicial needs assessment. On that motion—

>> Justice Ashmann-Gerst?

>> Yes.

>> Judge Baker?

>> Yes.

>> Justice Baxter?

>> Yes.

>> Mr. Bonino?

>> Yes.

>> Judge Brandlin?

>> Yes.

>> Ms. Davis?

>> No response.

>> Judge De Alba?



>> Yes.  
>> Judge Elias?  
>> Yes.  
>> Judge Ellsworth?  
>> Yes.  
>> Mr. Fox?  
>> Yes.  
>> Justice Hull?  
>> Yes.  
>> Judge Jackson?  
>> Yes.  
>> Justice Miller?  
>> Yes.  
>> Judge O'Malley?  
>> Yes.  
>> Mr. Robinson?  
>> Yes.  
>> Judge Rosenberg?  
>> Yes.  
>> Judge Rubin?  
>> Yes.  
>> Judge Stout?  
>> Yes.  
>> The motion carries unanimously.  
>> Thank you. Thank you, Judge Alksne.

>> [Applause]

>> Keep up the good work.

>> So you can't leave without knowing your name. It's Judicial Branch Resource Needs Assessment Advisory Committee.

>> There's one vowel, at least.

>> [laughter] I can come up with an acronym for that.

>> Thank you.

>> Speaking of keeping up, we are going to skip our break because I understand we can conclude soon. I am not rushing items Y or Z, however. Item Y, AOC Restructuring. Curt Soderlund? Info item only.

>> Thank you, Chief. Z's going to join me up here, also. This item is to respond to a number of directives—actually, there were 11 directive—that dealt with the directives that were adopted by the council, and it deals with:

- Cost-benefit analysis for major projects going forward (The idea here is to adopt a program whereby we would get input in collaboration from stakeholders from these major projects.);
- An emphasis on transparency;
- Consult with the council and Executive & Planning, as necessary;
- A complete analysis of scope;
- Development of accurate cost estimates;
- The identification of funding consistent with constant collaboration with Fiscal Services Office;
- The application of cost and contract controls, including monitoring;
- Full documentation of the decisionmaking process; and
- Once again, transparency in consideration of the fiscal operational impacts in the courts and stakeholders.

>> So Zlatko's and my experience in terms of dealing with the Department of finance—we did not want to reinvent the wheel. The Department of Finance uses something called the *budget analyst guide*. It has many attributes. Among them is cost-benefit analysis and looking at all of the various political and fiscal issues that stakeholders would want to be concerned about. On November 25, Judge Jahr approved the approach of creating a template that we would use internally within the AOC and that template is called a *Request for Approval of Project Proposed Form*.

That material is in your binders under item -- attachment C.

I will not go through the various points, but it identifies the requesting office -- what the project title is, the summary, estimated costs, how it is going to be dealing with the impact analysis, and things of that nature.

Obviously on something like this, since it is a more new sophisticated structure approach for us going forward, it would not be applicable in every single instance. For example if we had more minor projects that that level of effort would not make business sense. But let me try to identify an example where the application of this approach would appear to make sense. As everyone is aware, Phoenix Financials has been deployed to all 58 courts. The payroll is in 8 courts. We are adding on a ninth court and 10 and 11 are in the queue. These are small courts. Another one of the attributes of Phoenix that has had a level of interest from the courts is that we have additional modules that we have never deployed. They are in our bag of tricks, so to speak. For example, among these other modules that there has been an interest in, this deals with a module for fixed assets—that's inventory control. Another one deals with learning and training. And a third one deals with budget projections. All three of these areas have had a high level of interest from a number of courts over time. When the fiscal crisis hit and we had to suspend deployment of the payroll, still waiting in the wings was this issue of additional functionality. Let me use fixed assets as an example of where this analysis might make sense.

Fixed assets: it is very a robust tool, and it would be applicable certainly to all the major courts. But, deployment of fixed assets to a smaller court—and I will use the extreme example of Alpine—would make no business sense whatsoever so this would be a very robust electronic way for courts like Los Angeles and Sacramento, Riverside, Santa Clara to maintain current data on their fixed assets. That would be an area as an example where we might do an analysis and say where should the fixed assets module be deployed? The opposite of that would be on the budget projections where certainly every single court would want to have access to that budget projection manual to make that process easier and more accurate. So, that would be an instance where we would recommend that we do the full-blown analysis using the templates in your handouts at this point in time.

>> I would add this: 7 of the 11 recommendations that were adopted relate to CCMS, so it's a specific chapter in the report, and it noted many of issues that you heard today from the presentation by Judge Herman. So even before we had finalized this document for AOC use, and within the branch, the concepts already were finding their ways into the major initiatives of the branch. So while we were doing this work on this BCP—the ideas of benefits and costs, stakeholder managing costs, understanding all the benefits—our analysts right now are working with each court to thoroughly evaluate what are the costs, what are the benefits, and in some cases, they are not quite sophisticated enough to appreciate what an avoided cost may be. That is part of the analysis—costs you don't even have to incur—that is a part of the analysis.

That is important. This isn't just something that we started now. It has been something since the directives were adopted that we were thinking about how we can work this concept of evaluating costs and benefits.

The next aspect of the proposal is ensuring that we do this on a consistent basis across the organization. When I was with the Department of Finance, I conducted the analysis training for new analysts so that they all looked at the issues in a similar fashion. What we didn't want was one unit looking at a proposal for Department of Consumer Affairs with a different critical eye than being looked at for Department of Health Services. It was important that we had consistent approaches as we looked at evaluating proposals. So, using that expertise that I have, the materials that we've gathered from the Department of Finance and the Department of Human Resources that also has modules on training for analysis, we're going to be training our staff here to do the same sort of review that we expect to have happen for the council when it considers proposals. Like I said, we want to make this a robust evolving process, something where all staff are trained for this type of analysis, and that is consistent, so that we're not seeing it more robustly applied in one area versus the other, because any resource needs should be weighed and evaluated with the same basic tools. The depth and scope, though, can vary based on the nature of the proposal. We want to make sure that we weave this concept of having an analysis done in evaluating the pros and cons and costs and benefits of items we think are necessary to take forward for your consideration.

>> And recall a version of this has already been put into application in terms of recently the council voted on a technology project with regard to assisting the Fresno court to get off the V2 version of case management systems. There was a cost-benefit analysis in that effort that identified that over a 2- to 3-year period, there would be costs that would not continue to be incurred and that savings from that effort would go back into the IMF for the benefit of all the courts. So there is some application of this that has already taken place.

>> Thank you. Any question or comment? Judge Wachob, then Judge Jahr.

>> Thank you, Chief. I just want to thank Curt for the work on this, and Zlatko. This is something that is near and dear to the heart of the SEC because it grew out of a problem, and now we have an approach that I think will be in play. Understated in the report is that in a way the wheel is not being reinvented. These are approaches that have been used in other agencies in state government and private industry, as well. So, I think it is good that we are doing that. The other nuance that I think you do not get credit for in this report is that there is another consistent approach of taking into account the needs and collaboration of the courts. The users. That is something that we have seen here again this morning when we talked about technology, that we are coming from the ground up and there is greater collaboration. That is something that you should also get credit for in applying this approach. So thank you.

>> Thank you for those comments.

>> Thank you, Judge Wachob. Judge Jahr.

>> Yes, well first of all, the staff expresses its gratitude in turn to Judge Wachob for his leadership on this issue. appreciation. I have yet another typo I would like to corrected, if you don't mind, and that is in attachment C, attachment C to the report found under item Y. The first paragraph under the heading policy statement, the second line, the word *proceeded* is meant to be *preceded*. We will make a correction.

>> Thank you.

>> Any further questions or discussion?

>> I want to thank Olivia Lawrence who really, that works for Curt, helped us to divert—and time away from her regular hours of work to help on this. So I really appreciate that and just wanted to make that point to the council.

>> Thank you, Zlatko. Thank you, Curt. And thank you, Judge Wachob, for those comments.

>> We have one more item on the agenda, and that's also an information item, item Z, Judicial Branch Administration. This is the California State Auditor Report, Armed Persons With Mental Illness. We welcome Shelley Curran and John Judnick.

>> Thank you, Chief and council members. Shelley is here -- I saw her earlier.

>> [indiscernible] I saw that.

>> Good morning, Chief, and members of the Judicial Council. I am Shelley Curran, and I am here today with my colleague, Mr. John Judnick, to speak to you about a Bureau of State Audits report that came out in October 2013 entitled *Armed Persons With Mental Illness: Insufficient Outreach From the Department of Justice and Poor Reporting From the Superior Courts Limits the Identification of Armed Persons With Mental Illness*. Essentially, this report details the trial courts compliance with reporting requirements related to the identification of armed persons with mental illness. When it was released, the audit received significant media attention. So what we're going to talk about today are to quickly outline the existing reporting requirements that were touched on in this audit. We will provide an overview of the State Audit reports, including the recent passage of some legislation dealing with this issue, and then speak very briefly about some of the efforts that the Administrative Office of the Courts is undertaking in response to this and other reporting requirements related to firearms.

Pursuant to Welfare and Institutions Code 8103, 5300, and 6500, superior courts must report certain mental health determinations to the Department of Justice for the purpose of identifying individuals who are prohibited from owning or possessing firearms because of a mental health determination. Some of these determinations include things like that the person is a danger to others or themselves as the result of a mental disorder. This results in a court order of

commitment to a treatment facility: things like not guilty by reason of insanity or incompetent to stand trial.

There are multiple ways that the courts report this information to the Department of Justice. In criminal proceedings, courts have two ways to report this: one is through an electronic system at the Department of Justice; a second is actually manually. In regards to civil determinations, at this point the courts can only report to the Department of Justice manually. Legislation was passed this past year that provides for electronic reporting in civil matters to the Department of Justice, but the Department of Justice has informed us that they will not be ready with this electronic system until at least 2015.

In short, the audit concluded that the Department of Justice didn't sufficiently inform the trial courts of this obligation under the law and that many of the surveyed courts did not comply with the reporting requirements and, in fact, many of the courts were not aware of the reporting requirements. Specifically, the State Auditor looked at 34 courts and visited three courts: Los Angeles, Santa Clara, and San Bernardino. They found that DOJ had not reached out effectively to inform them. Generally, courts were better at reporting in criminal cases than they were civil cases. None of the three courts visited by the State Auditor fully complied with all the requirements. Another thing that the DOJ realized—pardon me—the Bureau of State Audits realized in this audit is that many courts were interpreting the term *immediately* differently. In statute, courts are required to report this information immediately and they got varied responses to *immediately*.

One catalyst as a finding of this is that legislation was introduced last year, AB 1131, including a provision that defined *immediately*. It now means two court days that the courts have to provide this information to the DOJ, and the council took a support position on that provision in the bill.

The audit recommendations that were included in the report that impact the courts required the AOC to work more closely—or asked that the AOC work more closely with the Department of Justice in order to help the trial courts comply with this. We have continued to do that. Another important thing that we should point out is that they have suggested that the reporting requirement be changed from 48 hours to 24 hours. This is something that we have said would be virtually impossible for the courts to do given resources. Mental health facilities have an electronic system. They are also staffed 24 hours a day, and so they are able to do this within 24 hours. For the trial courts, that would be very difficult.

>> Since the audit has come out, the AOC has worked with the chair of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee to inform the trial courts of these requirements. The Department of Justice has updated their forms, and they disseminated those to the courts at the end of August of this year. My office has received over 22—we stopped counting when we hit 22—calls and inquiries from the trial courts, and we have been working with in order to help them meet these requirements.

CJER has a video up on Serranus that includes information on these reporting requirements. They also have been working with the Probate Law Curriculum Committee and the Criminal Law Curriculum Committee to figure out how to incorporate this information into those programs. Additionally, my office is undertaking a comprehensive review of all firearms reporting requirements, and we will disseminate that to the trial courts once we have been able to do that. And, finally, on Monday, there is a hearing sponsored by the Joint Legislative Audit Committee on this audit. I will be there along with Mr. David Yamasaki, as chair of the Court Executives Advisory Committee. So with that, I will turn it over to John for any additional thoughts.

>> Thank you, Shelley. I have a few comments. This report from the California State Auditor came out. It obviously deals with accountability, efficiency, and resource issues and therefore went to the Accountability and Efficiency Committee of the council, chaired by Justice Huffman. That recommendation was to present it to this committee—to the council to inform the council as to what was going on with the California State Auditor. The response to the audit signed by Judge Jahr indicated, as Shelley stated previously, that the shorter deadline is not recommended. The Bureau of State Audits, now known as the California State Auditor, will be recommending a change in legislation. That is part of the purpose of the hearing on Monday. Part of the response indicated that again with the unprecedented budget cuts that affected the branch, there are resource issues here, and those resource issues also take into account the lack of electronic reporting capabilities statewide at the current moment that the State Auditor has indicated they are considering. With that, that concludes this. I know I talked to Mr. Yamasaki about this, and he will be attending Monday's meeting.

>> Yes, if I could, Chief, this issue is clearly an important one. We as courts have an obligation to comply with the statute. The challenge, however, that we have is the process that we have to undertake in order to make those reports timely. One of the reasons why there is a little bit of inconsistency in the interpretation of what *immediate* means is, really, as it fits within the resources that we have. We are extremely challenged. Just looking at the findings for Santa Clara, we had an error rate of about 24 percent. As it so happens, the vacancy rate is 24 percent. There is a direct relationship between resources and the errors that we did uncover. Notwithstanding that, we understand that we have to do a better job at reporting it. It is extremely difficult. It's not just reporting it—we undergo a process of evaluation to ensure that the report is accurate.

We have to undergo that step. I just heard for the first time today that one of the recommendations is that the statute be changed to a 24-hour report time. I will be the first to say there is no way we can comply with that. We rely upon technology to make expeditious reports. There is no technology in many of the areas that we have this requirement. I am expecting to make a similar acknowledgment on Monday, but I am hopeful that they understand where we are. It is an important issue, as I say, but we can only do so much with the resources that we

have. Maybe this is a complaint, but I think in speaking with my colleagues around the state, we share similar concern about this potential new requirement that we're going to be facing.

>> Thank you, David. Judge O'Malley and then Judge Walsh.

>> Shelley, I have a question and then a follow-up comment. The Department of Justice is not ready to receive this information electronically until 2015 and need it manually submitted until that time and 2015 might not be hard either as far as the end date. And by manually, is this our clerks sending a form—not clicking information into a computer—but manually mailing off part of the document that they sent to us back up to them to be read, you know, the envelope opened, read, and then submitted into their data?

>> Yes, in criminal cases right now there are two ways for the information to get to the DOJ. One is electronically through a system that they have and then manually is the other. Civil commitments it's only manually, and my understanding of *manually* is literally a form.

>> Okay, so to have that done within 24 hours is extremely unreasonable. Even submitting the information into a computer to input all that necessary data within 24 hours of a judgment of a calendar that was probably anywhere from 70 to 120 matters on it is unreasonable. So I am glad to hear that the department is willing—at least I thought I heard that they're willing to change it back to at least the 48 because that is— No?

>> The 48 is what's in statute effective January 1. The 24 hours is a recommendation that the Bureau of State Audits has. We don't know how the Legislature is going to act. The fact that they just decided that 48 hours is the right answer—I would be surprised if at this point they turned around and moved up to 24 hours when we have not even had a chance to comply within 48.

>> You have to worry because obviously there are all these shootings, and so they're going to think faster is better; however, faster is not doable especially when the information -- the only way we can give this information to them within the next 1.5 years or so or maybe longer is manually. We don't have the staff. We are already down—you know, many of our courts are down 30 percent of our court staff. We are barely getting through the filings and the inputting of the information into our own computer systems so that someone can get out of jail in time because they have completed a sentence, you know, to make sure that they are not held for more days. There are timely things that we need to get done as soon as possible, and to fill out a form and send it out to the DOJ within that amount of time is not reasonable. Otherwise, thanks for the update.

>> [laughter] We will clearly make that point on Monday, especially in the context of, you know, courts and judges are not interested in people who have mental illness, who are not supposed to have firearms from having firearms. It is not coming from a position of not wanting to do this. It really is a practical matter. Courts don't have the staff to do it in that time.



>> Judge O'Malley, also as a point in the report itself, the report acknowledged that the DOJ is receiving a lot of manual reports and they are significantly backlogged in entering it into *their* system.

>> Judge Walsh?

>> What a system. Thank you, Chief. First of all, on behalf of PJs, we have brought this report to their attention. I'm sure they're on it. We will follow up again at our annual meeting.

But I did want to mention, because our court, Santa Clara, is one that had the honor of being closely scrutinized. First, I want to thank my able CEO. He's the one who will testify on Monday—not his PJ—so that's as good as they get, right? Thank you for that, David.

But I wanted to say, sure, the DOJ did not reach out, but it is still our responsibility, and we get that. We want perfection. They looked at 30 of our cases. We got 22 right, and 8 we did not report. We want 30 out of 30, and we'll get there. It is our responsibility and we will take that responsibility, and David and his team have already put into place procedures to correct that, and we expect we'd be 30 out of 30 right now.

But, as David pointed out, it is a coincidence perhaps that our error rate mirrors our vacancy rate. This ongoing notion that somehow we can do perfection while we are woefully underfunded—somebody, at least some other city than ours has to get real about that. It should not be a surprise that a woefully underfunded judicial system will on occasion not fully meet its responsibilities to the people it serves.

We can get there if we can get the resources. But, in the meantime, Santa Clara County and I'm sure the entire state will try for perfection even though we are underfunded.

>> Thank you, Judge Walsh. Mark, was that a hand up?

>> No -- [indiscernible] [laughter]

>> Thank you. Judge De Alba?

>> Thank you, Chief. Just a comment generally on the question of firearms and prohibitions and reporting to the Department of Justice. We have done pretty good with DV, I think—the courts and the law enforcement community—with respect to firearms restrictions and reporting. There was a time about 10 years or 12 or 15 years ago when the DV situation was much like the 5150 situation or the conservatorship situations are now, where there is a complete absence of reporting. I saw the report where 29 out of 34 courts didn't even *realize* they had these reporting obligations.

I have, for the last six or seven years in my county, been the firearms prohibition judge. I entertain a calendar three times a month where I have to make determinations about people who have previously been already committed. That's 5150 or 5152 or whatever it be. Whether to

restore their firearm privileges. I have to say on a positive note with respect to this entire area of prohibition and notifying the authorities and police and all alike, that most of these folks who have these types of infirmities, when they initially have contact with a mental health facility or with law enforcement, it is my view and impression and experience that those agencies and departments are adequately reporting to DOJ. So, if you are committed on the front end, the Department of Justice—much like an arrest—that’s recorded and the entire law enforcement community or mental health community knows about it. Now they come to court. For whatever reason—criminal proceeding or civil proceeding or what I entertain, or many courts in every county has to entertain—I don’t know how it’s done throughout the state – that is, making determinations about whether to reinstate or restore firearm privileges to people that have this history. Given the tragedies that have happened around our nation with firearms and persons who have these mental instabilities, I suggest that as has been said, that courts and judges and staff throughout our state need some intense education on this very potentially tragic, explosive subject matter of judges and courts making determinations of who should have firearms or who shouldn’t have firearms and our reporting obligations. I saw in this report that some counties routinely make determinations that somebody is so disabled or gravely disabled and make a determination of a conservatorship that issue no order about a firearms restriction to someone who is completely unable to make decisions for themselves. Obviously that is not good. So, it is just observation. And I don’t know if that lies with CJER or maybe by educating the Legislature that we need resources to educate judges in 58 counties. I know that in the six or seven years that I’ve been doing this, I can’t find any resource that informs or educates me as a judge trying to wrestle with these types of determinations about process or standards, other than the Welfare and Institutions Code sections: 81 03-05-07—about reporting, standards, process, etc. Just an observation.

>> Thank you, Judge De Alba. I see no further questions. Thank you for pursuing this. We appreciate your work and the training that will follow.

>> Thank you.

>> We conclude today’s meeting as we often do, unfortunately, with a brief remembrance of our colleagues who have recently passed. We have Judge Nancy Brown, Superior Court of Los Angeles County, and Judge Robert Zarick, Superior Court of Sacramento County. Both were retired from the bench. As always, we honor them for their service to the courts and their dedication to the cause of justice.

>> The next regularly scheduled this meeting of the Judicial Council—

>> Could I add two names to that list?

>> Yes.

>> These were very recent who were departed: Justice M. O. Sabraw, from the First District Court of Appeal and also just this past Monday, Justice John Gabbert from the Fourth District, Division 2 at the age of 104.

>> Thank you.

>> I also think Judge Gallagher also—a retired judge—who has been serving Northern California, as well. Sacramento, I remember. All were retired. We all thank them for their service. Thank you, Frank. Thank you, Judge De Alba.

>> And as I was saying, the next regularly scheduled meeting is January in Sacramento, January 23. Happy and safe holidays.

>> To you also.

>> We are adjourned.