

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

>> Good morning. This is the business meeting of the Judicial Council of California for February 20, 2014. The meeting is now in session. We will adjourn later at approximately 2:45 PM based on our agenda. As always, I remind council members that our meetings are audiocast live with real-time captioning on the California Courts website. For the benefit of council members joining us by phone --we welcome Judge Ruben and Judge Robbins and our online audience—please speak into your microphones and address each other by name so that real-time captioners and listeners can follow our discussion. Because we are meeting here in Sacramento and not in the board room, microphones have been placed for every other member. Please remember to lift and pull the microphone toward you as you speak so that we can all hear and our listeners can all hear your comments and your questions. This is the second of our two Judicial Council meetings in Sacramento this year to facilitate direct advocacy with legislators by Judicial Council members on behalf of the judicial branch and the courts. The legislative visits yesterday and in January provided council members with an opportunity to share the compelling argument for reinvestment in California’s justice system, to address questions and misconceptions, and to share first-hand experiences with legislators about how the ongoing budget cuts have impacted access to justice. Many voices share the needs of our branch and the public we serve. But importantly we have one vision for the funding needs of a fully functioning judicial branch. Once again I would like to thank the Judicial Council members for their active participation, our Office of Governmental Affairs for organizing these legislative visits, and our AOC staff for supporting us in conducting our regular Judicial Council business meetings here in Sacramento. I believe that yesterday’s Legislative Analyst’s Office report on the Governor’s criminal justice proposals shows the benefit of ongoing, focused advocacy in addressing our judicial branch funding needs. We will continue our efforts to share information and to collaborate with the trial and appellate courts, judicial branch agencies, and our coequal branches of government and to do so in support of our common vision, a blueprint for a fully functioning judicial branch. Our first order of business is the approval of the minutes from January 23 meeting. Do I hear a motion to adopt, and a second?

>> Motion.

>> Thank you, Judge Jacobson. Thank you, Judge McCabe. Any discussion? All in favor, say aye. Minutes are approved.

>> Next on our agenda is my regular report as Chief Justice, to the council, summarizing my engagements and ongoing outreach activities on behalf of the branch since our last meeting, which was January 23. Although this was a short reporting period, my engagements reflect the

three roles: as Chief Justice of California, Chief Justice of the Supreme Court of California, and Chair of the Judicial Council. First, my authority and ability to administer an oath of office was put to good use after our last council meeting when I had the pleasure and honor of swearing in the national officers of the American Board of Trial Advocates (ABOTA). This included they're current national president and our Judicial Council member, Mr. Mark Robinson. Mark also facilitated a Q&A session where I was able to speak about judicial branch funding and the importance of civics education, two critical and interrelated issues. As a member of the board of directors of the Conference of Chief Justices, I attended our midyear meeting in the state of Georgia during their emergency alert. Apart from hearing budget impact stories and strategies from my peers around the nation, it's also beneficial to participate in the work of their committees and task forces at a national level. I am currently a member of the Courts Children and Families and the Criminal Justice Committees, as well as the Western Region Task Force on the Regulation of Foreign Lawyers and the International Practice of Law. After our Supreme Court's February oral argument session here in Sacramento, I had the opportunity to address students from the McClatchy High School Law Academy and answer some of their very educated and probing questions. I also continued a tradition that I began when I was a superior court judge here in Sacramento with a visit to Sutter Middle School, where Ms. Cooperman's 7th and 8th grade students are taught civics and they're still eager to learn about the constitution and I explained the state court system and took Q&A. I also traveled south to the joint meeting of the Inns of Court of the Inland Empire, with attendees from Riverside, San Bernardino, Indian Wells, and Murrieta, along with Justice Miller. Judge Lucky moderated a conversation where attendees had the opportunity to hear more about Access 3D—that is, physical remote and equal access. This also served as an opportunity where Judge Jahr and I went to Los Angeles to speak with the *Times* editorial board. They wanted to know quite a bit about our funding and what else is happening in our judicial branch. But as with all of us, and especially your work yesterday, legislative advocacy remains a major component of my engagements and outreach efforts this time of year. So apart from conversations with State Bar president Luis Rodriguez and California Open Courts Coalition cochair Paul Kiesel, I had a number of meetings with legislators from the Senate and the Assembly, as well as representatives from the administration. These included Assembly Member Joan Sawyer; Assembly Member Conway; Senator Hough; Mr. Michael Cohen, director of the California Department of Finance; Senator Evans, in her other role as a legislator; and in their roles with budget and judiciary committees, Senator Nielson, Senator Anderson, and Assembly Member Wagner. All of these interactions provided me with opportunities to answer questions, provide facts, clarify issues, and put forward our judicial branch perspective, our plan, and –the facts about the courts' fiscal condition and needs. As with all of your meetings, I believe that these meetings are vital to the ongoing collaboration and information sharing as we move through the state budget process. I try to make it a point to say that we want to be the people you turn to for your facts for all the different decisions that you must make. We'd like to give you the facts so you can make an informed decision. That concludes my report.

>> Next we'll hear from Judge Steven Jahr, with his Administrative Director's report.

>> Thank you, Chief. You have in hand my regular written report summarizing activities, programs, and services in which the Administrative Office engaged on behalf of the council and courts since the January meeting. I would like to draw attention to a couple of the items in the report for your consideration. First of all, I too would like to express my great appreciation to the staff of our Office of Governmental Affairs, under the leadership of Cory Jaspersen, for their efforts in coordinating the more than 100 meetings between council members and legislators and their staff, concurrent with the council's meetings here in Sacramento in January and today, culminating in the reception with the representatives of our sister branches in the freshly restored courts building encircled by the Capitol, hosted by Justice Hull. In addition to diligently following through on any issues raised at these meetings, Cory and his team are continuing to set and prepare materials for the ongoing series of meetings that the Chief Justice and I are having with the legislative and executive branch partners, as was mentioned by the Chief moments ago. As was also mentioned, earlier this month the Chief and I had two separate such meetings with Assembly Member Jones-Sawyer, who is the budget subcommittee chair on the judicial branch budget. Mr. Jones-Sawyer raised some issues regarding the financial management of the Judicial Council and its administrative office and administered court funds. In this regard, we made clear that the state appropriation for the trial courts is allocated under the new WAFM formula by the Judicial Council, not by the AOC, and that the Administrative Office exercises no discretion but simply administers the council's direction there and then reports and accounts in detail for every penny to the Legislature. We also alerted Mr. Jones-Sawyer to the fact that an independent external financial audit of the Administrative Office is already scheduled to occur this year by the Department of Finance's Office of State Audits and Evaluations and that this scheduled audit, in combination with the array of financial reports we regularly provide to Legislature, contains detailed fiscal information. To demonstrate the scope of reporting that already occurs and the level of transparency that exists, we provided Mr. Jones-Sawyer's office with six binders containing 4,500 pages of reports that the Administrative Office has provided to the legislative and executive branches within the past year alone and advised him of the substantial series of audits the AOC and the Judicial Council have undergone over the last several years. We have also been working with the Department of Finance to seek an amendment to how summary information of the Judicial Council and Administrative Office budget is displayed. DOF director Michael Cohen has readily and kindly obliged us in this request, which is based on our concern that funds that have been historically included as part of trial court budget funds until two fiscal years ago are now shown in the Governor's budget summary as part of the Judicial Council/AOC budget. This could lead legislators to make an apples and oranges comparison and thus to inaccurately conclude that the expenditures by, and thus perhaps the appropriations to, the Judicial Council and the Administrative Office for operations have risen since fiscal 07-08. As mentioned, the Department of Finance has now authorized use of its expanded budget display, which clearly and correctly shows that the Judicial Council/Administrative Office operation budget and expenditures, which represent 3.6 percent of the overall branch budget, have as we all know gone down during this period. We will ensure that this information is made available to our colleagues in the Legislature. As you are aware, Assembly Member Jones-Sawyer recently sent a letter to the Joint Legislative Audit Committee requesting an audit of the Judicial Council and Administrative Office of the Courts. At the request of Assembly staff, we provided comments on the substance of the letter. The annotated letter, which includes our comments in

blue, has been provided to each of you at table just moments ago and, I submit to you, is a helpful and thorough going commentary on the points that are made in the letter. I suspect that you will see that the annotated version identifies inaccuracies or areas of incompleteness, most notably a misunderstanding of the Governor's budget display concerning and branch spending over the last five years, as I mentioned to you must moments ago. The comments in blue in concert with the expansion of the display, which the DOF kindly provided, show the significant reductions in Administrative Office expenditures during that time. I do want to highlight, probably more importantly, that any member of the public can access the legislative reports I referenced through our California Courts website. We have also posted there as a fact check information on the internal as well as the external audits of the council and the Administrative Office by entities including the California State Auditor, State Controller's Office, and the Office of State Audits and Evaluations. We have in the past and will continue in the future to abide by all reporting and auditing request. Extra copies of the letter with annotations are available on the table under the clock, as is a display of the eight binders of 4,500 pages of reports that we previously provided to Mr. Jones-Sawyer's office. In addition, you will find, and that which has not been passed out, on Judicial Council stationary, a summary of the various audits and reports that we submit to or provide, and a separate document that actually contains an itemized listing of each report that is required of us that we provide in due course of business. As we continue our state-level advocacy efforts on behalf of our court system and the public we serve, I am also pleased to note that the judicial and bar members of the Bench-Bar Coalition are preparing for upcoming Day in the District visits by regional teams of judges and attorneys to legislators and their district offices. OGA is updating, with the aid of all the trial courts, the snapshots, which were so helpful in those activities last year. These visits are an important part of our advocacy effort in terms of providing an on-the-ground, local perspective on challenges as well as opportunities for protecting and improving equal access to justice. I should also mention, as a final budget-related note, just yesterday our chief administrative officer, Curt Soderlund, was contacted by the Department of Finance, which requested, as it did last year, that the trial courts next month provide their projected fund balances as of June 30, 2014, which of course would be the last day of the current fiscal year. We will, as we did last year, formally pass on that request of notice and work with all the trial courts in compiling those projections for transmittal in a timely fashion to the Department of Finance. On the education front, improving access to justice is the central underpinning for the array of judicial branch education program offerings highlighted in the report that I presented to you. The diverse subject matter of the programs conducted for judicial officers,—court employees, and justice system stakeholders— since the council's January meeting included among others sentencing for drug-involved offenders, ethics and self-represented litigants in domestic violence cases, and an overview of the California Environmental Quality Act, which the CJER Civil Law Curriculum Committee has now recommended be produced as a benchguide for judicial officers. These valuable programs draw on the expertise of AOC —subject-matter experts and the justices, judges, and court administrators who volunteer their time, many for commitments over decades, to share their vast knowledge and experience with their judicial branch colleagues. Their investment is greatly appreciated and an infinite value to California's justice system. Chief, that concludes my report.

>> Thank you, Judge Jahr. We will turn to the internal chair reports to the Judicial Council. Executive and Planning Committee, Justice Douglas Miller.

>> Thank you, Chief. As the Chief mentioned in her report, we are in the capital this week to meet with legislative members to advocate for adequate funding for the judicial branch. As all of us will attest, it is very important for members of the two branches to come together and learn from each other and discuss how we can best serve our common client, which is the public. I will highlight just a few items in my oral report. My written report will be posted online. But before I begin my report, I'd like to share with any new listeners that the primary role of Executive and Planning is to set the agenda for each of our meetings, as well as to oversee certain tasks delegated to us by the Judicial Council. I would like to thank all of the members of E&P who squeeze in conference calls during between lunch, late in the afternoon, and sometimes even in evening. And I especially want to congratulate Executive and Planning member Mark Robinson, who was just named president of the prestigious American Board of Trial Advocates. I think we should all congratulate him. Congratulations, Mark.

>> One of my roles as chair is to represent the council at various functions. I had the privilege of speaking at the presiding judges and court execs conference a few weeks ago. I appreciated the invitation, and it was a great discussion about many of the issues we are concerned about. Our committee has met four times telephonically. We also met twice in person, along with the Rules and Projects Committee and the Technology Committee. They primarily review –court rules and to make recommended modifications to proposed rules on advisory committees and task forces. One of the things I want to talk about was a shared role I have with the other internal chairs and that is to recommend the Open Meetings Rule. Public comment on this rule ended on February 7, and we received many thorough and thoughtful comments, which we have just begun to sort through. As all of you know, our task will not be an easy one. We must balance the need for transparency with the ethical concerns of justices and judges who volunteer many hours on these different advisory committees. The council relies on these committees, as you will see in our reports and actions that we take today, to guide us in the work that we do for the judicial branch. At this point we have a couple of meetings scheduled to finalize the rules. One thing, though, that we can guarantee you is that it will make the California judicial branch the most transparent branch in the country. That's our promise [indiscernible]. That's all my comment.

>> Thank you, Justice Miller. Next we will hear from the Policy Coordination and Liaison Committee, Judge So.

>> Thank you, Chief. The Policy Committee has met once. And we recommend sponsorship of a legislative proposal authorizing two new justice positions [Indiscernible] in the Court of Appeals because of a substantial growing need. That is Item D on your consent agenda. Fair warning for PCLC members, tomorrow is the last day to introduce bills. Then our workload will really begin for this legislative season. The Office of Governmental Affairs will be reviewing all bills to identify those of interest to us, those that will impact the judicial branch. And we will keep you all informed of those bills.

>> Thank you, Judge So. From the Rules and Projects Committee, Justice Harry Hull.

>> Yes, good morning, Chief. Ladies and gentlemen, thank you very much. The Rules and Projects Committee has met three times and has considered proposals by e-mail three times since my last report to you at the December 13 council meeting. As Justice Miller just noted, on December 19, in a joint meeting with the four other internal committees, RUPRO met to consider circulating for public comment the rule proposal on open meetings. RUPRO approved circulation for comment, and after, the internal committees considered those comments. This proposal is expected to come before you at the April meeting. RUPRO met jointly in person with E&P and the Technology Committee on January 23 to consider public comments on a proposal to establish the Judicial council Technology Committee and three advisory committees, to amend two rules for existing advisory committees, to amend rules addressing committees generally, and to repeal one rule. The proposal implements recommendations in the report and recommendations to improve the governance, structure, and organization of Judicial Council advisory groups that were submitted by RUPRO, E&P, and the Technology Committee and approved by the council in April 2013. RUPRO, E&P, and the Technology Committee later communicated by e-mail on February 14 to consider revisions to this proposal. RUPRO recommends approval of this proposal, which is Item I, I believe, on the Discussion Agenda today. On January 29, RUPRO met by phone and considered two proposals, and RUPRO recommends approval of those proposals, which are Items A1 and A2 on today's consent agenda. RUPRO communicated by e-mail on February 5 to consider a technical correction to the Uniform Bail and Penalty Schedule. RUPRO recommends approval of this proposal, which is Item A5 on the Consent Agenda. I think it's still A5; we had the agenda amended a few times. In any event, RUPRO communicated by e-mail on February 10 to consider technical amendments to three forms to reflect changes in the federal poverty guidelines. RUPRO recommends approval of this proposal, which is Item A4 on your Consent Agenda this morning. Chief, if there are any questions, I will be happy to answer them.

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

>> Thank you, Chief. I'm not going to repeat what's already been presented or discussed as far as meetings that are held jointly between the Tech Committee and RUPRO, E&P, etc. So just going to the meetings that are technical, we've had two meetings since our last report in December. At the January 6 meeting, the committee reviewed in its oversight role the Court Technology Advisory Committee's annual agenda, and it was modified after input from the Technology Committee. We had a discussion about governance review in terms of how we are going to approach repurposing and redirecting CTAC in light of what we are going to assume would be the recommendations of the Technology Planning Task Force and to get a jump on that restructure prior to bring the entire plan to the council at its June meeting. We also reviewed and approved the updated reports for the council on technology and also the budget change proposals in the foundation for the judicial courts, which are basically the six courts that are going for [indiscernible] upgrades to the [?]CQ process, as well as the expansion of the WAN/LAN communications program, which we talked about at the last council meeting in January. At the February 6 meeting, the committee received updates on progress with the Technology Planning

Task Force. Again, the governance review structure, video remote interpreting, which is part of CTAC's annual agenda for the year, in terms of reports and what the policy issues were, and so forth and so on. I attended the next day, the meeting of the joint working group for California's Language Access Plan. The focus had been entirely on video remote interpreting. The policy issues again regarding video remote interpreting, a discussion and a presentation from the Fresno court on their VRI project, which they are moving forward with the interpreting project. We also had an update on Cisco Systems. Cisco has offered workshop opportunities for the courts, for the council, and the AOC. There was the issue that we discussed and resolved regarding the public contracting action. We definitely took advantage of that opportunity and got a report from CTAC on their progress in terms of their annual plan. I also reported on committee meetings with the executive branch that took place on the Friday after our last council meeting. We had lunch with Carlos Ramos, who is the head of the California Department of Technology of the Executive Branch, Myself and Judge De Alba attended, as well as Mark Dusman and the Curts. Also that same day, we had a presentation from the Department of Human Resources, particularly in relation to their child welfare case management system. We are going to begin thinking about data exchange between their case management system and the trial court's case management system. We approved the addition of six additional courts—Madera, Napa, Nevada, San Francisco, Sierra, and Trinity—to the Statewide California Courts Protective Order Registry, with a grant of funding of \$330,000 from the Department of Justice. We also, at my request, I asked ITS0 staff to brief us on technology projects that are covered by IMF, the Improvement and Modernization Fund. In preparation for coming to grips next fiscal year in terms of how we are going to continue to support the technology projects. We were given the ins and outs of financial [?] in terms of the history of the IMF fund has supported technology in the past and what we can look forward to in the next fiscal year. In addition, I asked ITS0 staff, Mark Dusman and his staff, to brief the committee in terms of the full history and background of [?] and Sustain Justice Edition case management systems—that is the degree to which they've been subsidized by the Judicial Council. Because we received a recommendation from the Trial Court Budget Advisory Committee to take a look at how we can wean those courts off of support from the branch so that they, like many other courts in the state, will be supporting their own case management systems financially, so that is going to be a major piece that's going to be on our plate for the coming year. Take a look at it; make a recommendation to the council. In terms of giving you an update of where we are with Technology Planning Task Force, the council received a presentation on the executive summary and included the principal at our last Judicial Council meeting. Since then, the draft of the full plan—strategic plan, capital plan, governance structure, and funding model—has been completed. It is in draft form, and that will be circulated within the branch for a very short period of time, and what's important, we'll get complete input tomorrow from the committee itself. The executive summary has already been circulated within the branch, so this will be the full product first look for any feedback from the branch. And after we get feedback from PJs, CEOs, Appellate Advisory, etc., we will then circulate it for public input and public comment and bring it back to council at the June meeting. So that completes my report. Any questions?

>> I thank the internal chairs and advisory committees for all of the work you do behind the scenes to get us up to speed for our hearings today.

>> Next on our agenda are the Judicial Council members' liaison reports. I believe we have two folks who have—two members—who have met with some superior courts. I will ask to start with Judge Stephen Baker reporting on his visits to two superior courts.

>> Thank you, Chief. Good morning, everyone. I have two reports to provide. First, I will start with Modoc County. I visited Modoc County Superior Court on January 10. Modoc County is located in the northeastern corner of the state. It has a population of approximately 9,500 people. It includes an area of almost 4000 square miles. The county seat is Alturas, which according to the city limits sign last month, has a population of 2,827. It's a small place. Modoc is the third-least-populated county in the state, after Alpine and Sierra. There is only one courthouse in Modoc County, which is located in Alturas. The next-closest superior court is south, in Lassen County. There are two authorized judicial positions in Modoc County. The presiding judge is Fritz Barclay. The assistant presiding judge is Dave Mason. When I visited, I met with both of these gentlemen and their CEO, Ronda Gysin. They were all very enthusiastic to meet with me to discuss the state of local issues and provide me with a tour of their facility. The court operates with 10 staff, which is down from 14 from fiscal year 08/09. They have one single court reporter. The main courthouse was built in 1914. It's a beautiful building, but it is in major disrepair and has security issues. The court room is [Indiscernible]. You can see from these photographs, steps are crumbling. It is really a shame because it is a beautiful building. Court operations have moved next door, to a single-story facility that was built in the early 1990s. This facility is named the Robert A. Barclay Justice Center after Presiding Judge Fritz Barclay's father, who was a Modoc County superior court judge . [Indiscernible-low volume] trial court consolidation.

>> Both judges share a single courtroom in this relatively small facility...on a weekly basis. Because of the small size and remoteness of this court, their judicial assignments are unique. Both judges are required to cover a broad variety of matters, and potential conflicts require judicial exchanges with neighboring counties. In this regard, Modoc County has received several ducks awards in the last several years for its creative use of the exchange process. For example, several years ago Modoc County entered into a consolidated calendaring arrangement with neighboring Siskiyou County. This involved Siskiyou and Modoc judges ... side of the border and Imperial Lake on the Modoc side. This arrangement obviously saved enormous funds. [inaudible] Unfortunately, the budget crisis has caused this arrangement to be considerably downsized. And the sister county continues to be available. Weather permitting, the Modoc judges continue to engage in exchanges with Siskiyou, Lassen, and Plumas Counties, and they have made use of the Assigned Judges Program. Here's a photograph of the staggered calendar system that was used. In the last five years, the court budget has declined over 170 percent. Due to their smaller size, this court relies heavily upon all services provided by the AOC. And the judge has asked me to express that to the council. They also benefit substantially from their relationships with other courts. They also appreciate legal assistance they receive from Sacramento, legal assistance from Habeas Corpus in some civil matters [indiscernible]. And they do hope we can continue this relationship in the future. Bottom line, Modoc County has done a remarkable job of operating with a shoestring budget. And they appreciate the liaison process.

>> Thank you.

>> I'll next report on the visit to the Humboldt County Superior Court. I visited the Humboldt County Superior Court on January 3. Along with me there was the administrative director, Judge Jahr, who ... Del Norte County. So they got a twofer. It was a useful and very enjoyable day. The two of us met with Presiding Judge Dale Reinholtzen and the assistant presiding judge, Joyce Hinrichs, and the CEO, Kerri Keenan, and the assistant CEO, [Indiscernible] Stephanie Cameron gave us a tour of the facility. And we met most of the other judges on the bench, as well. This is a mixed-use facility. You can see a photograph.... We were there on a foggy day. Humboldt County, for those of you who aren't familiar with it, is located in the northwest corner of the state, just below Del Norte. It has a population of about 135,000 people... 4,000 square miles.... The county seat is Eureka, which has a population of about 26,000 people. There is one courthouse in Humboldt County, which is located in Eureka. It is a mixed-use facility for the county. The superior court takes up out 35,000 square feet of the facility. Most industries are protected by private security; however, the clerk's office is on the east ... side of the building behind glass. The courthouse side of the building was erected in the 1950s. As the court has grown, the facility has become more inadequate.... The jury deliberation rooms, and judge's chambers, and holding cells share the same quality. There are no -attorney conference rooms, no private place for ... and child care areas, and no spaces for the public to gather. Some of the courtrooms are smaller than current standards. Their furnishings are ... and in disrepair. Here is a photograph of one of the smaller courtrooms. And this is a photograph I took of the counsel table. This is the jury seating area. Obviously, ripped upholstery. Some of the photographs are not showing [indiscernible] duct tape holding things together. At this time, it's anticipated that the next ...ship will require a court to be located on the fifth floor and you get there by using a very small elevator. Here is another photograph, I believe, of the courts area. It is not in a secure area of the building but it is behind the screened There are seven ... and one commissioner, which is approximately 25 percent less than ...needs assessment. The court is very pleased they are going to receive any new judicial position once funding is approved by the Legislature. But they have concerns about where they will place that much-needed judge within the facility. Since fiscal year 08/09, this court has ...over 18 percent of its revenue, with further reduction ... allocation formula. The court currently operates with 86 staff members, down from 93 positions in 08/09. Voluntary furloughs have been in effect every year since fiscal year 09/2010 but it is anticipated that furloughs in the next fiscal year will be mandatory in the future if budget is not approved. Budget cuts ... such as Hoopa and Garberville and They serve [Indiscernible] and Arel County. These areas are a considerable distance from the courthouse, separated by mountainous roads. This obviously decreases access ... regions. The two biggest concerns of this court at this time are funding and facilities. The judges and staff are hardworking and diligent. They do have a very large caseload and few resources. Apparently, the clerk's office closes at 2 p.m. to the public. The court is hopeful that normal hours can be restored when funding improves. We were there on a Friday. And the court room was quite busy, requiring several judges ... backup bench. They were all very appreciative of the visit.... And that the services they are receiving from the AOC ... are "invaluable." For example, the judges and administration specifically cited labor negotiations, legal services..., general counsel, the assigned judges program, and security issues, just to name a few issues [Indiscernible-low volume]. They are appreciative of all the work done by the council. Unless Judge Jahr has anything to add, that concludes my presentation.

>> Thank you. These are invaluable to us, as we can't get out there. Next come up [Indiscernible]

>> I did want to say that everything he said was very accurate. I am not sure if in some cases they are not in compliance. I think they work well together as a team. I am an advocate of the county.

>> Thank you, Senator Evans.

>> I want to add my compliments to the bench in Humboldt County. I think they are on the forefront of working collaboratively with their tribal courts. They are doing such a wonderful job.

>> Next we will hear from Judge McCabe and his report.

>> On January 24, I met with the judicial officers, CEO, and CFO for the –Tulare Superior Court. I orally summarized to the group major events and work by the Judicial Council over the last two years, solicited their input on what they wanted the council to know about the Tulare Court, and listened to their concerns. The Tulare Superior Court presently consists of 19 judges with one vacancy and three subordinate judicial officers. It has one authorized position under AB159 pursuant to the revised SB56 workload calculations adopted by the council at its December 2013 meeting. Said authorized position has yet to be funded or filled. Physically, the court's allocation for 2012 was \$23,312,615.

>> It decreased in fiscal year 2013 to \$22,107,422. And currently, thanks to a modest increase due to the WAFM allocation, it has slightly increased to \$22,559,371. The fund balance was \$2.2 million in fiscal year 11/12. It dropped to \$1.4 million in fiscal year 12/13, currently hovering around \$694,000. The Tulare court mitigated the budget-induced decline in the level of court services last year by the receipt of \$1 million from the County of Tulare. Such generous assistance is unlikely to continue in the future. Staffing has been reduced in the past few years. The Schedule 7A filled positions in fiscal year 11/12 was 237 compared with the current 212 full-time employees with 8 extra help. There remains 58 vacant full-time employee positions. The court system consists of facilities as follows: four courthouse facilities, including a main courthouse, are located in the City of Visalia, and one newly constructed courthouse in the City of Porterville. Due to the budget impacts, the entire third story of the newly constructed courthouse has been closed down. The courthouse located in Tulare has been closed, and the courthouse in Dinuba has ceased all operations except to open one day a week to receive fine and fee payments only. Tulare is on the Sustain Justice Edition for all case types except civil, which is the Sustain eCourt System. An effort is under way to convert all case types to the Sustain eCourt System. The caseload for the court in fiscal year 2010/11 was 98,922 filings at averaging, 4,496 cases per each officer. I solicited concerns that the Tulare court has and would like that Judicial Council to know. They are (1) budget. The issue of concern focused on the budget cuts to the branch over the last several years and its draconian impact resulting in branch closures, reduction in staff, and a decrease in accessibility to the courts by the public. Funding cuts have also adversely affected staff morale. Stress runs high. Specifically, because of the budget cuts

and reduced allocations, the court has had to respond the only way it can: reduction in staff and services. This in turn has produced a greater workload for the remaining staff. Irritability by the public unable to easily access the court as in years past and who blame the courts for the cause and effect instead of the funding branches of government. All this raw emotion is observed and noticed in the courtrooms.

(2) Public relations. Significant time was spent discussing the relationships between the judiciary with both executive and legislative branches of the government and ways to improve and nurture such relationships. Although it was noted that the three branches are partners in government, it was also noted that the era of deferential treatment by other branches toward the judiciary has come to an end, creating an adversarial nature to the budgeting process between branches. Support was voiced for a vigorous PR campaign to educate the public concerning the cause and effect of the funding system while working to strengthen interpersonal relationships by members of the judiciary with members of the other branches.

(3) Cost-saving legislation. Frustration over the difficulty to pass legislation that have efficiencies and cost-effectiveness was stated. While the judiciary is financially squeezed by the other branches, various components of the legal community resist a variety of changes already adopted either by the federal system or in other states. Change does not come easy and our branch is proving it to be no different.

(4) Centralized fund balances. The proposal that the trial courts maintain only a 1 percent fund balance and any surplus at the end of the fiscal year pour into a centralized 2 percent account maintained by the AOC was concerning. Specifically, a policy that earmarks said monies to the court of origin where that set of centralized funds would be distributed based on the WAFM formula. Such a pool of funds [indiscernible] by other courts. Absent optimal funding for the judiciary at all levels, particularly at the trial court level, enormous disparity in demand for the ... exists. Infrastructure needs are monetarily enormous at some of the larger courts ... by a few if not just one of the largest court systems. A thorough and equitable policy for the distribution of funds was encouraged.

(5) Innovations. The Tulare court continues to use technology and innovative thinking to combat funding shortfalls. E-warrants, e-filing, traffic ..., jury kiosks permitting scanning of barcode resulting in direction ... has business in the court facility, all help to make more efficient efficiencies and mitigate the reduction in staff and thereby provide service to the public.

(6) Assigned Judges Program.

This program is truly a lifeline for the court. It provides an invaluable service to keep courtrooms open and thereby maintains continuity in courtroom services. Kudos to the AOC staff for their helpful and effective service.

(7) One percent fund balance requirement. The Tulare court wants to go on record that the 1 percent fund balance requirement will significantly impact their court. No longer will there be sufficient cash on hand to deal with emergencies, such as damage to their server room,

necessitating immediate repairs and cash to pay for said repairs, else services discontinue. The potential detrimental impact of the limited funds ... to court operations cannot be overstated

(8) Salary and furloughs. Like many other courts, Tulare, too, has not been able to increase employee salaries since 2008 other than some merit increases to eligible employees. The significant and continuous erosion of funding has taken its toll to the detriment of the court and the public. In all, the Tulare court is diligently working to meet the needs of its citizens with its given resources. Innovation in technology and a desire not to be satisfied with the status quo have stemmed some of the effects.... They are eager to work with the AOC and other courts to create innovative ways to fulfill their constitutional duties and responsibilities. The Tulare County citizens should be proud of their judiciary. I have lodged a copy of this written report with your staff, and that concludes my report. Thank you, Chief.

>> Very nice. Thank you, Judge McCabe. Thank you for that thorough report. I am especially glad that you were able to lodge the written report with council because we do like to keep an ongoing record of these liaison reports. Very good. Any comments or questions or observations? I want to thank both of you. Once again, I know we are all so busy with our daily work and our assignments and our homework, and to come to council also to do the work attributable to that, but in addition to go and visit these courts and provide an ear and a voice and representation is invaluable to us, bringing this information home. Thank you.

>> Before we move to public comment, I want to acknowledge someone, really words fall short, for someone who has done a great deal for the public we all serve and who has never shied away from providing what I consider to be her insightful comments. On the occasion of her last Judicial Council meeting before retiring and (inaudible) retirement, I would like to congratulate and thank Judge Sherrill Ellsworth for her many contributions and her efforts, not only to the people of Riverside County, and the Superior Court of Riverside County, and to this Judicial Council, and to the statewide administration of justice, but also to me personally, with all of your efforts for these years, when you were Presiding Judge and now as a member of Council. You made many contributions, but I want to highlight two that have been critically important to bringing us forward in this time of fiscal freefall.

>> You were involved in two critical initiatives for me and the Judicial Council. First, my Strategic Evaluation Committee, where you volunteered many, many hours for this evaluation and audit performance of AOC. And the council's Trial Court Budget Work Group, which came up with (inaudible), and worked so closely and I think intimately in many ways with courts that stood to be considered donor courts and courts that had to look to a different formula and a change in their funding plans in the future.

>> Both of those initiatives brought about what we have embarked on most recently with council, and that is pronounced transparency, accountability, and fairness in the way our branch operates. I'm very grateful to you for all the work you've done. I'm sorry to see you go and happy for you and your plan out of state. And I will invite you to receive, as you know, *The*

Federalist Papers, one of our signature contributions to Judicial Council members who leave us. And after I invite you up and take a picture, I'd like you to share some words.

>> I'm not one that gets very emotional or cries very often. I have a sister who cries at every movie she sees, and I just go to the movies with her to mock her. So I tend to get emotional only on occasion, and when I do it's not a pleasant sight so I'll try to keep this brief.

>> It has been my distinct pleasure and honor to serve what I believe is the (inaudible) State of California for almost 19 years in different capacities. Some of the greatest lessons I have learned and contributions I have been able to participate in, and I won't indicate that I am necessarily the guiding force within the areas of family and children, and domestic violence. Certainly, the SEC report was a founding moment for me being Presiding Judge in my own county. And as I leave you, I'm really not leaving at all. I'll just have more time for volunteering, and so please feel free to contact me. But I've often thought about what my role is, whether it's on the Judicial Council or whether it's in the courtroom. And actually, stitched in my own heart, I believe that we are sentinels of justice, keepers of the public trust, and guardians of access.

>> And that does mean that we have to stand up and say things that maybe no one else at the time in the room agrees with. And it does mean we have to vote not your heart, but your conscience. And it does mean that you have to step up and volunteer and not be in the shadows, but be out in the light and be able to take the stinging arrows sometimes. But by doing that, I think you retain the integrity of not only the nobility of the seal which we adorn our courtrooms with, but truly the notion of what it is to be a judge. What it is to be a member of the Judicial Council. What it is to serve the public. And I'm not married to an attorney. I'm married to a dentist. And he's always asked me, now why do you want to do that? Or what are you getting paid for that part of it? And I tell him just do a lot of crowns and leave me alone. Because at the end of the day, what we do can't really be explained, all the extra work, it can't be really explained to people who don't understand it.

>> What I do understand is that I've had the most incredible spouse and partner, though, and family. As you all know, I'm mother to six children, and we have seven – now almost eight – grandchildren. And little two-year-old Adele got on the phone today on her birthday, and she insists on calling me Nana Cuckoo. And so I will go to a better service after this.

>> Thank you all. You are my friends, you are my colleagues, and sometimes you're on the other side of the debate table with me, but I think that's how we get things done; we've done correctly. And I thank you, Chief, very much for entrusting me in the work you've allowed me to do. Thank you very much.

>> Before we start public comment, which I'll turn over to Justice Miller, I also invite – I don't mean to edit anyone else who would like to speak about Sherrill's departure or work with her. I just know I've asked her to do many things and she's always yes before I get the sentence out completely. And I've always appreciated your enthusiasm and your dedication and your frank discussion with me. Thank you.

>> I couldn't let the moment go. I've known Sherrill now for all of those 19 years and had the privilege of working with her in the Riverside Superior Court. I watched her as she worked as a Presiding Judge during a very difficult time in the courts and did such an able job. And then been able to sit with her on the Judicial Council, and I think we've served on many Judicial Council committees. And so I know you personally and will miss you immensely. I know that I can still call and text you, but you've been a great friend, a great friend, and you're someone I love and cherish.

>> Judge Wachob and then Judge O'Malley.

>> Permission to pile on.

>> Granted.

>> I don't want to steal Justice Scotland's thunder. I know he's going to say some things about Sherrill, but I didn't know Sherrill until 2011 when we had the privilege of being placed on the Strategic Evaluation Committee together, and I've served on many committees. I've done many things over my career, but one of the true pleasures and highlights of my career was not only being on that committee, but working with people the caliber of Sherrill Ellsworth. To me she's one of the great judges in California, not just because of her work on the bench, but because of all the extra things that she does that she just simply doesn't get paid for. She gets it as the judge. Her governing principle always seems to be, what can we do better for the citizens of this state? How can we make the judicial branch work better? How can we better serve the citizens? And, boy, I'm going to miss you.

>> Thank you. Judge O'Malley and then Judge Jacobson.

>> So, I met Sherrill serving on a lot of committees when I was Chair of the Presiding Judge's Advisory Committee and she was coming in as APJ and PJ of her county. I called upon Sherrill Ellsworth for a lot of things, and she never said no. So thank you. And I'll miss you.

>> Thank you.

>> I just want to tell a very brief story maybe about a different aspect of what you contributed. When I came on the bench, after about three months I was sent to a (inaudible) training, and Judge Ellsworth was one of the teachers. And I came from a prosecutor background, state court prosecutor background, where the one thing that you knew for sure was to avoid (inaudible) cases like the plague. And you injected in me an appreciation for the importance of that work that to this day, and I believe to the end of my career, I will always keep (inaudible), and I thank you for that.

>> Thank you. Thank you. Judge McCabe.

>> Thank you, Chief. I, too, met Sherrill on the Strategic Evaluation Committee. The bonding that went through because it was, quite frankly, whether you know it or not, a very isolating experience. We could almost feel the hisses and boos as we walked in to do interviews or ask for documents, and consequently the result was almost a Band of Brothers type of an attachment to each other because it was we felt like we were on an island. Because of that experience, because of working and having the privilege of meeting, hearing, collaborating with truly a talented group I'd never worked with before, and probably never will again. Sherrill was instrumental. She didn't sugar coat things, so we knew where she stood. I opined, I think privately as I'm trying to figure out the political landscape, to Scotty at a dinner, you know, Sherrill's the type of person that, you know, will run over me. And she did because she didn't hold back. She called it like she saw it. And she was so thorough in her analysis that in the end I started calling her Sissy.

>> As Sissy (inaudible).

>> And Sissy as in sister, because she reminds me of my older sister who runs over me all the time. And so with that, and I hope this isn't too personal of information I'm divulging, but I am truly going to miss working with you, collaborating with you, texting you, even if it's a joke or not. I've come to respect you and the other members and truly, in my heart, have grown to love you. And I'm going to miss you, as I know Charlie is, and the other members. So with that, thank you for your service and the distinct privilege of being able to work with you.

>> Thank you.

>> All right. Thank you all, and thank you Sherrill for being Sherrill.

>> We have two members here who have requested public comment. Our first is Honorable Arthur Scotland, Presiding Judge, Retired, Court of Appeal, Third Appellate District. Can you please approach the podium? You have five minutes, and I will give you a reminder at one minute. Thank you.

>> Thank you very much. Thank you, Chief Justice, and thank you members of the Judicial Council for granting my request to come and join in the tribute to Judge Sherrill Ellsworth, a former colleague and still a great friend. And I'm going to dispense with the formalities. Sherrill, okay, Sherrill is special. And I'm really pleased to see you in Sacramento, my home town, and I'm also pleased to come before you as a former member of the Judicial Council and former Administrative Presiding Justice of the Court of Appeal, Third Appellate District. Former this, former that, I guess you could call me a has-been.

>> So, but I am here in that capacity, and I, too, got to know Sherrill as part of the Strategic Evaluation Commission when the Chief Justice appointed me to be the initial Chair of the Commission and appointed a really fabulous group of individuals to that Commission.

>> I want to digress for just a minute if I can because I just think the creation of the Strategic Evaluation Commission really demonstrates the leadership and the vision of the new Chief

Justice when she first came – one of the first things that she did was to create the Strategic Evaluation Commission – Committee – to do an in-depth program audit of the Administrative Office of the Courts. And the directions were, do what you need to do. No holds barred. Nobody looking over our shoulder. And just get into it, top to bottom, side to side, back to front, a full in-depth review, analysis, and evaluation of the Administrative Office of the Courts, and then to make recommendations on how to enhance operations, make them more transparent, etc.

>> So if I could I want to just take a moment to talk to you a little bit about what the SEC did. Because, you know, when you work in an organization, in a group like that, to do a program audit of an entity like the Administrative Office of the Courts, you learn not only everything about the entity that you are doing the program audit of, but you learn a lot about the people that you're working with to do that. And that's how I got to know not only Sherrill, but Charlie Wachob, Brian McCabe, and many, many others on that committee. And I've got to tell you, it was a pleasure, and it was a lot of work, but we truly did a complete, thorough, top-to-bottom evaluation of the AOC. We had a methodology. We obtained information from all of the—I'm not too keen on the word "stakeholders—but, hey, they were stakeholders, okay. We got information from presiding judges. We got information from all judges that wanted to comment in the entire state. We got information from court executive officers. We got information from organizations and entities that are users of the court system. We had—this took a long time, and we dug, and we dug, and we dug. And we learned, in my view, everything about the AOC and its operations, its method of operations, and I think that's reflected in a very thorough, and quite frankly, hard hitting evaluation and assessment of the AOC, because this was, and this, again, is a tribute to the Chief Justice, you know, no holds barred. We really want to know how the AOC is operating and what might be done to make it a more efficient and transparent organization. So we held interviews. We went to the sites. We had interviews with every presiding judge of the trial courts. We had interviews with all of the chief executive officers that wanted to talk with us. We, as I say, gathered information from all judges...

>> One minute.

>> All of the administrative presiding justices. It was a very thorough, very complete, very in-depth assessment. And ...

>> One minute.

>> One minute. Okay. So, thank you. So in that I got to know Sherrill well. As has been indicated, Sherrill is never shy about expressing her views, which is also balanced by her wonderful sense of humor and her real genuine commitment to good government. So I want to take off my hat. One of the great things about getting old is you have the opportunity to meet and work with really exceptional people, and she is one. Sherrill stood out in a very positive way, and I'm just thrilled for you. Congratulations in your retirement. Thank you for what you did for the SEC to make that such a great report and a great program (inaudible). Thank you.

>> Thank you.

>> Public Comment

>> The next public speaker is the Honorable Steve White, Judge, Superior Court of Sacramento County.

>> Five minutes and I'll give the warning at one minute. Thank you.

>> Thank you.

>> My name is Steve White. I'm the Judge of the Superior Court of Sacramento County. I'm the President of the Alliance of California Judges, which you know from my previous appearances before you, it continues to be a growing organization, now exceeding 500 members.

>> My purpose to be here today is to urge this body to support the audit that is requested by Assembly Member Joan Sawyer of the AOC itself, an audit that has never been done, notwithstanding references to the SEC Report as an audit. It specifically was not, as its principal author the esteemed Judge Wachob observed, that it was neither tasked, driven, or funded to audit the AOC.

>> And also because of the findings within that reported audit, as represented by people here, that it was very critical of the AOC, finding among other things the lack of full disclosure or shading of information to make it appear more favorable to the AOC, has created in this trust. Unless credibility and trustworthiness are still the core organizational values model from the top down, the AOC cannot expect to be successful in its dealings with its employees, the courts, the Legislature, its stakeholders, and the public.

>> I come before you not to castigate or excoriate anybody here or the AOC. I know many, many—most of you—and I like all of you. I know and I respect all of you I know, and I respect all of you who I've not yet met. I respect this body.

>> I have been, I think, legitimately appropriately of this body for not taking ownership of its responsibilities over more than a decade, ownership failings which were identified in some discreet separate audits having to do with findings that the Long Beach Courthouse could and should have been built for \$160 million less than it was, having to do a lot with the CCMS debacle.

>> I do recall when I came before you almost four years ago and implored this body not to transfer another \$110 million from trial court funding to CCMS, citing at that time the Governor's statement, the incoming Governor, that he was going to cut the Judicial Branch budget and citing the fact that the State Auditor's Report was shortly coming out.

>> The consequence of all that was that because the council decided to go ahead and transfer that money anyway, the loss to the people of the State of California on the CCMS Project was almost

\$600 million as opposed to \$110 million less. Today, there would be more courtrooms open, more court reporters and clerks working, and so forth.

>> One of the reasons why the audit that we urge this body to support rather than oppose—and I note with some interest that this body seems already without a vote to be opposing it, as I've had conversations with legislators yesterday and today which sort of affirm that point—is that in order for this Body to have credibility and for the AOC to have credibility, it needs such an audit.

>> There are three reasons, it seems to us, for the audit that we call for and that I am hopeful that JLAC will approve and authorize. One is just to find out how monies are spent in the AOC and the Judicial Council, and not necessarily for the purpose of identifying misspent monies or improperly spent monies. That's really not the point. Maybe some of that is there, but that's not the point.

>> The second part of it, and this is important, is to find out the priority of allocation of those monies. Neither the Legislature, nor the Governor, nor the courts know what that is.

>> One minute.

>> The reporting that is provided is opaque, anything but transparent; and there's a lot of hyperbole. We would like to know which programs and how much monies are being spent on so that people who have real responsibilities about keeping courts going—judges, legislators, the Governor—can make informed choices and urge policy decisions which can move, if it's appropriate, some \$20 million, or \$30 million, or \$40 million that's presently spent by the AOC on programs important to the AOC but maybe not as important for keeping courts open at a time when courts have been cut by devastating swaths, by over \$1 billion, and the AOC has had really de minimus reductions. And in some cases, the reductions claimed were less than they were because a lot of it was put off-book and into private contractors.

>> Time.

>> The last thing we need is that the courts have regained confidence in the AOC and in the Judicial Council, and it doesn't happen without that audit.

>> Thank you.

>> Thank you.

>> Consent Agenda items.

>> Next on our agenda is the Consent Agenda. As you can see, we have 10 items covering a wide range of Judicial Branch topics. Some were referred to by our Internal Chair reports.

>> As you can see: Procedure and Inter-county Transfers; Updates to Judicial Council Forums to Reflect Changes in the Federal Property Guidelines; Revisions to the Traffic Uniform Bail and Penalty Schedules; Draft Funding Allocations for Access to Visitation Programs; Judicial Council-sponsored Legislation Relating to Judicial Positions for the Courts of Appeal; and four reports to the Legislature from the branch or the council which is, as you know, part of our regular, ongoing reporting to our sister branch.

>> As you know also, but for those who may be new to hearing our procedure here at council, the Executive and Planning Committee places items on the Consent Agenda in consideration of council meeting time and to ensure that the work of the council and its advisory committees can be as effective and efficient as possible in setting policy and implementing solutions to the issues facing our courts in the branch.

>> An item being placed on the Consent Agenda in no way reflects the significance of the proposal or the labor that went into proposing it. I know this from experience, as I worked on Item D on the agenda in my role as Chair of the Administrative Presiding Justices Advisory Committee.

>> Prior to the meeting, any council member may request that an item be moved to the Discussion Agenda. We've had no requests to move any of these items to the Discussion Agenda. So I ask for a motion to move the agenda and the second.

>> So moved.

>> Second.

>> Judge Ellsworth so moved. Judge McCabe and, I believe, second and also Judge Jacobson.

>> The agenda is approved.

>> We now begin our Discussion Items, and we begin with Item H, the *Judicial Branch Administration: California State Auditor Report on Procurement Practices, Review of Information Systems, and Semiannual Contract Reporting*.

>> I understand Justice Huffman is not calling in. So I ask Mr. John Judnik, AOC Internal Audit Services; Mark Dusman, AOC Information Technology Services Office; and Curt Soderlund to the presentation panel.

>> Good morning, Chief, council members. I'm here to report on the California State Auditor's report entitled *Judicial Branch Procurement: Semi-Annual Reports to the Legislature Are of Limited Usefulness, Information Systems Have Weak Controls, and Certain Improvements in Procurement Practices Are Needed*—pretty lengthy title.

>> On December 19, 2013, the California State Auditor issued their Audit Report on Judicial Branch Contract and Procurement. The Audit Report covered seven objectives, but I'll summarize those into three objectives. The first one is Procurement Processes and Contract Compliance with the Judicial Branch Contracting Manual for the Supreme Court, the Courts of Appeal, the AOC, and the Habeas Corpus Resource Center.

>> Second, they reviewed the accuracy and completeness of the Semiannual Report to the Legislature and to the State Auditor on contracts. On February 1, under (inaudible) Order issued of the Fifth Annual report to the Legislature and the State Auditor.

>> Third, they reviewed General Information System controls and limited specific application controls for the Phoenix Financial System used by the Trial Courts and the AOC's Oracle Financial System. They are used in the discovery process. In someone testing the Semiannual Report, they test the system controls of those systems that generate the Semiannual Report. Those systems were reviewed to determine the reliability of data used in the Semiannual Report and other reports that were provided to the State Auditor.

>> The report results were that the AOC, as well as the eight other Judicial Branch entities tested, have generally complied with the judicial contract laws requirements and the *Judicial Branch Contracting Manual*. But there was a need to improve certain practices and ensure that staff dealing with procurements are trained in the proper procedures in documentation such as utilizing competitive bids, evaluating bids correctly, and documenting sole-source procurements.

>> The results from this audit are very similar to the previous audit report that was issued earlier last year on six pilot courts; and in that audit report, similar to this one, there were not very many issues concerning contracting and procurement.

>> The State Auditor tested 125 procurements and contracts, 110 payments on those contracts. They were tested from a population of approximately 2,200 procurements, with a value of almost \$300 million, for a 12-month period ending April 30, 2013. I don't think it is unreasonable to state that the procurement process in contracts within the Judicial Branch, based on these two audit reports and previous audit reports, is not good and generally compliant with policies and procedures in the contracting manual.

>> The attachment that you have to the council report identifies 26 recommendations that the State Auditor made in its Audit Report. Out of those 26 recommendations, at least in my opinion in the summary that I've prepared, we have completed 13 of those for the other Judicial Branch entities and 8 at the AOC, with 4 incomplete and 1 based upon statutory change.

>> I'd like to point out, at least on that first summary page, that the Third District Court of Appeal had no issues identified in the Audit Report. And the other judicial branch entities had two or three, all considered in my opinion very minor compared with the total number of contracts and procurements and payments that they tested.

>> Within the recommendations in the report itself, I'd like to point out the fact that for one of the recommendations, it deals with the Semiannual Report, requiring us to put that on our website on an Excel format basis so it can be reviewed; and we have done that.

>> They are also recommending statutory changes, as I indicated earlier, in the proposed and introduced Bill AD-1773 that was read the other day. And in our opinion, when we were requested to review this, we provided a couple of comments. First, I think as Mr. Soderland may comment subsequently, we are in general compliance with the existing statute concerning the Semiannual Report. They are requesting additional data to be provided. They are also recommending certain changes.

>> In our review, when we responded to this report, we are indicating—and it's also in our response—that our initial evaluations were the purchase of system modules for both Phoenix and for Oracle. And for the implementation just of those modules, the cost from a few years ago when they were estimated, is in excess of \$1 million. This does not include the cost for the Superior Courts to enter data if this action is passed. It is a significant cost.

>> There are other issues in the recommendations. I won't go through all of them, but we are in the process of correcting those; but it will take some time. Additionally, the State Auditor's Report identified a confidential, nonpublic Management Letter—and there are also additional letters that were issued to superior courts—but this particular letter issued to the AOC and certain superior courts based upon their testing in the systems area. As I discussed earlier, they test the systems that are used to produce the semiannual reporting and other reports.

>> These letters are issued in this way because the State Auditor believes that there are weaknesses they've identified that are sensitive and could compromise the security and availability of information systems. The system issues that they identified have concerns about policies and procedures, system security access, and other general system controls that we're currently working on.

>> The AOC has already, as identified in our response to their report, produced guidance for the superior courts. And we have issued that to assist them in correcting some of the issues that the State Auditor has identified.

>> The work that is being done now is to ensure that we have controls throughout the system, and that work will go on through the end of December. With respect to the Semiannual Report, the State Auditor did report in its title that the Semiannual Report is of limited usefulness. The basis of that decision by them is that the—and I'm quoting their report—"The Semiannual Report prepared has limited usefulness to decision makers and other users due to its size and the electronic format that does not allow users to quickly and effectively locate certain issues and information." This is really not an issue of data reliability; it's more an issue of usefulness of the report in terms of any potential users and their access to that report and information.

>> The report by the State Auditor consistently discussed in the system's area, which report the fact that we could do certain things and the issues are more of a prospective nature. Again, we are correcting those issues.

>> The report and the response is we will continuously during the course of the year respond to the State Auditor and their (inaudible) one-year process. And we will try to ensure that we get that done as quickly as possible.

>> Curt?

>> Thank you, John.

>> I think actually the Bill is 1733 that was introduced yesterday and (inaudible).

>> My mistake—must be my glasses.

>> As mentioned before, we have already formed a (inaudible) response to the (inaudible) that were identified by the (inaudible) network that's under way right now. We've formulated a schedule with milestones in the strategic plan in order to address those concerns.

>> As John indicated, the changes in data that they're requesting are not inconsequential in terms of the costs going forward—not only for the AOC, as John mentioned, but also for the trial courts. If you can please recall that all the courts on the system for Phoenix Financial, as an example, and there are other systems that are court-specific and are not part of the network, so those concerns would be translated to the local level also.

>> Again, we're moving forward in terms of making corrections, as John had indicated. We've already sent out the statewide memos to all the court execs and the information officers and (inaudible) staff to put those corrections in place.

>> I think John has really covered the full story there.

>> Justice Hull?

>> Thank you, Chief.

>> Just an observation first and then a question—the observation being that as to the Third District Court of Appeal audit, I take personal credit for that outcome. In fact, I didn't know there had been an audit until about a week ago.

>> On a more serious note, the comments regarding Recommendations 3 and 4 in the materials that we have in effect say we can't do that unless we find \$1 million plus additional costs. Where does that leave us? I mean, what do they expect of us at this point—find it?

>> They have indicated that they would send a Management Letter to select members of the Legislature about that legislation and to encourage them to fund from the General Fund the dollars to do this.

>> Thank you.

>> And they're aware that last year and current fiscal year, of the \$63 million—\$60 million to the trial courts, \$3 million to the Habeas Corpus Resource Center, and the Supreme Court, and the Court of Appeal, no additional money was added to the AOC baseline budget?

>> They were informed of that, yes, Chief. And recall, in prior years we had tried to get additional funding for technology to move towards some of these (inaudible), and those technology requests were turned down.

>> Thank you.

>> Judge Ellsworth?

>> And again, we're back to the comments on the other piece (inaudible). It's a resource issue. And this wasn't even contemplated. And the message we took around yesterday in terms of the amount that it takes us to go on (inaudible), I think it's very important that we do, just like in everything, supplemental information out there that says, "If you like this bill is here. And if this bill goes through, money has to accompany it." Because the resources without that, where are we going to really take from? Are we going to be deciding now whether one of these nice courts that you've both reported on are going to close another window and so that we can adhere to the directives under this new legislation?

>> Obviously, it will be important for us when we're working with the Office of Technical Affairs on the analysis of that bill to do a very, very thorough fiscal analysis of the implications of that piece of legislation.

>> Judge Herman?

>> The critical reality, this gets back to the IMS at this point—the critical reality is we simply need funding for technology at branch level or of those projects that are supportive and those projects that assist the Trial Courts—that are of great value to the Trial Courts, like LanWin (sp?). How can we move forward without a supportive LanWin system that's periodically refreshed, upgraded, and maintained? One light in the current budget message was in reference to IMS as being a source for technology. So I don't know how we persuade our friends in the Legislature that that's a real focus in terms of our needs.

>> Judge Ellsworth?

>>I'm sorry to make another comment, but one of the places that we just—and I forget who we were speaking with—but one of the things that we were able to discuss was how groups in the county had gone paperless. So maybe on some small areas, we can encourage all the courts to take steps in which there are great savings from going paperless and sharing the information county to county. It's not apples and oranges. It's all in the bucket of technology. It's also in our dialog about operationalizing the cuts, that we were believe to do that. And I think that piqued the interest of who we were speaking with. It was like wow, now how did you do that? And I was able to share what great savings it was to the court.

>> And so I think some of it we can bear some more responsibility and say alright, here's what we can do in the area of technology. This is what we are really doing. So that it's not always the CCMS. But you did this, but you haven't done this. So even though it's a little different, I think it's a dialog worth having.

>> And, Chief, I would just add to that that Riverside has been really a leader in terms of key business practices, many of which are low-dollar practices. Obviously, going paperless has its cost factors. So we need that seed money to be able to gain the efficiencies that the Governor is looking for and that the Legislature is looking for.

>> Right.

>> And there is a substantial amount of sharing of that information among the CEO Forum and among the CEOs in terms of business efficiency. So that synergy is out there at this point. We just yet need some level of funding in order to accomplish the efficiency.

>> And that's the bright spot—is the work that's been done on technology and the court's innovation. And I know from the AOC point of view, the same is really with the Supreme Court point of view, and the Court of Appeal, and a few trial courts.

>> We need to get out of furlough first. We're still in furlough.

>> Right.

>> And so there is a baseline funding that has to be met before we can even move forward.

>> So this is before the council, as indicated in the recommendation, for discussion and acceptance, correct?

>> Yes.

>> Do I hear a motion for acceptance of this report?

>> So moved, Chief.

>> Thank you, Judge Herman.

>> Second.

>> Second by Judge Rosenberg.

>> Any further discussion? I know we'll hear more about this, and we'll be getting periodic reports, expecting one in April at our next Judicial Council meeting.

>> Not hearing any further discussion, all in favor to accept the Audit Report and the Report on Recommendations and Responses, please say aye.

>> Aye (multiple speakers).

>> Any opposed?

>> Thank you, recommendation carries.

>> We are thankful for Curt Soderlund, and Mark Dusman, and John Judnik's report.

>> We are thankful for the report. We are a bit ahead of schedule. We will move around the agenda items because I am informed that while we are not ready on item I, we already on item J—the action item on trial court allegations and criminal adjustment realignment and court-appointed dependency counsel and workers compensation liabilities. We welcome [indiscernible] and Stephen Chang.

>> Good morning. We are here to discuss a few allocations that have needed to be brought to your attention an approved regarding these items. As you know, the council has the authority to allocate funding that is appropriate for the budget at under the trial court improvement and modernization fund. The budget advisory committee convened periodically to review these allocations and make recommendations and we are coming forward with three particular issues for your consideration.

>> First, we had meetings in January regarding two of the items -- recommendation number 3 came from an issue that we have a special subcommittee on -- realignments and the recommendation came from another subcommittee that looks extensively at any of the allocations made from the G CPS and the IMF for the support of the trial courts. I think we would like to note that the work of the subcommittee was brought forward to the advisory committee and they were either unanimous or only one no will. The members -- to bring these issues -- to have them fully deliberated.

>> The first issue -- recommendations 1 and 2 related to the court-appointed attorney caseloads and funding. Currently the council allocates \$3.7 million and these allocations -- trial courts had other revenues from individuals that are able to pay for their representation and there has been

about \$2.3 million accumulated in the Trial Court Trust Fund. We are recommending that you allocate based on methodology adopted with the prior council meeting and distribute these to the courts that are available for reimbursement as identified in the report.

>> We are also asking that any of the unspent \$2.3 million allocated be carried forward to subsequent fiscal years and maintained in the trust fund. This way it is not run afoul of the 1% fund balance restriction -- the funds that are retained are not subject to the 1%. We think it is a way to help mitigate the cost of the caseloads for these cases.

>> Any questions before we go to the next recommendation?

>> Commissioner Alexander?

>> By keeping it in that trust fund is not a part of the 2%—the council is holding either?

>> Yes, it is separate.

>> Thank you.

>> Thank you, Zlatko. I will now turn it over to David Yamasaki.

>> You may recall earlier in the fiscal year the council took action which is a recommendation for the budget advisory committee to distribute or allocate 50% of the monies appropriated by the state with respect to funding the needs related to realignment. The reason for the 50% allocation was because we were going to see a whole new population of cases that resulted in new legislative action starting in October of this year. The fiscal year. We distributed at 50% based on the ongoing or previous historical work load that we saw and what we wanted to do was take a look at the new population of cases resulting from this responsibility. Judge Hull has [indiscernible] the advisory committee appointed me and David Wesley to share a subcommittee tasked with evaluating perhaps a new methodology for distributing the remaining 50% of the money. You will recall that we received a little over \$9 million -- the balance is \$4.6 1 million. So, we convened on three different occasions trying to take a look at the courts were seeing relative to realignment cases. The conclusion that we reached was that it was too early. Too early to get a good feel for what we will see in the long haul -- the amount of work associated with these cases.

>> We took the information we had on hand and we took a look at the petitions we received and we also examined the population of the community of cases that we would ultimately have to deal with and came up with an a new formula that couple the population and petitions and came up with an approach to distribute the remaining 4.6 1 million to the courts using that approach.

>> So, we combined the petitions and the population and came oh with a formula and apply it to a percentage which is displayed in the chart. That way we came up with a methodology for the balance of this year to utilize the \$4.61 million. You will see that some of the courts received an

increase over the previous first half of the fiscal year, but that was in large part because they started to see increases in their workload. It seemed very appropriate. Some courts show a reduction, but obviously we were using the same metrics and the same data elements and the recommendation was presented with the Budget Advisory Committee last month which was approved. That is the approach recommended before this body. For the distribution of the remaining 4.6 -- a couple things to note -- in previous years we have been able to accumulate a small reserve -- the recommendation that we have is to continue to hold back any event that in the event for the balance this year we may have to make some moderate adjustments where the courts may not have sufficient resources to cope with those cases. That's one issue.

>> The other thing -- as we started to complete this fiscal year we will get a better idea of the types of cases in the volume of workload associated with the matters and the recommendation is that a new approach be reexamined once the data is there so that we can come up with a solid formula to distribute the monies in subsequent fiscal years.

>> Thank you.

>> Questions?

>> Looking at this report, I have concerns about this. If you look at what we are supposed to do with realignment, the forward-reaching philosophy is to reduce the revolving door. If you look at these numbers -- this formula takes 50% based on the population of the people on the [indiscernible] and 50% based on the reported workload. I don't recall having seen the numbers. Have all 58 counties reported for the three month time? All of the courts are required to post information relative to the [indiscernible] that they receive.

>> My concern about this formula is -- let me back up -- we talk a lot about how the 58 trial courts have different cultures. My time in the last couple of years working with parole -- the one thing I have learned is that they have enormous differences from place to place. As dramatic as what we see in the trial courts.

>> So, I will call out to counties that I'm concerned about -- one is my own -- Alameda and the other is Los Angeles County. If you look at the numbers, this work accounts for about 30% or 31% of the population of supervisor persons. If you look at the additional workload, this accounts for 50% of the workload. If you boil it down further, in Los Angeles County it appears that they are filing petitions about one out of 4.3 supervised persons. And about 1/5 .9. If you look at all the other counties, you have an average closer to 1/10 supervised persons. So, my concern about the use of this formula in this way is that we are essentially providing financial incentive to let parole do whatever they're going to do. Their cyclical do not supervise and not import evidence-based practices. They are going to file petitions at the drop of a hat and we will reward the counties that are letting that behavior go on if we looked at other counties -- take a look at the large population counties. [indiscernible] County is somewhere around 1/10. Some of the large population counties are 1/15. LA is one and 4.3 and Alameda is one and 5.9. This formula rewards Alameda and Los Angeles counties for not staying on top of the parole and how

they are doing their supervision. We need some sort of evaluation, it seems to me, all where we are with the philosophy behind realignment. It might be a better allocation of methodology to base this on population of supervised persons. That in turn with that mean that for my county or Los Angeles County it would incentivize us to produce the number of petitions filed under way to do that is to encourage the supervised entities -- probation and parole -- to do more in terms of the sanctions. There may be another explanation for such as -- these two counties have an enormously high number of people absconding. There is nothing to do but file a petition. Maybe these two counties have a higher number of people committing serious offenses. This has nothing to do with filing a petition. I am concerned about this formula at the face value based on the spreadsheet here. There is an enormous incentive to those two counties to just let business as usual go on. That is certainly something I was concerned about the time I was sitting in the parole revocation court in the county last year. These are my comments.

>> Very good point. As we looked at how different courts deal with this population of cases, we were trying to land on a particular metric. What can we count on? By way of example, Santa Clara deals with a lot of cases without the actual formal filing a petition.

>> That is Judge [last name indiscernible] [laughter] He is somebody that is very creative. Somebody who is passionate about dealing with these folks.

>> He stays on top of parole, too. He is very active in pushing parole.

>> So, we can take a look as we go forward -- if I continue working on this subcommittee, a way to perhaps come up with a new formula of the population. We are almost at the end of this fiscal year. Switching gears to drastically -- this will create an issue for the courts that were anticipating some level of funding for the balance of the year. But, that said, we all agree that we need to come up with an appropriate measurement so that the money is distributed.

>> I don't have an objection. I'm talking about going forward.

>> Rest assured, that is something that we [indiscernible] It is good to move up these projections because they have been historically accurate by 15 to 20%. But I am concerned about applying 50% of this based on the number of petitions because it takes away the intent to do something other than lock people up. Other than process petitions. That is my concern.

>> If you look at any outlier court, you could do further investigation to determine why they are so different from the majority of the counties. It may be that it is more serious crimes. You wouldn't necessarily have to change the whole formula. Just look at the outlier course and maybe modify it.

>> That would be a lot easier than looking at it all from top to bottom. Because everybody else seems to be falling well in place in the formula.

>> Any further discussion or questions about recommendation number 3 -- which we understand as indicated a one-time action with a commitment to look at the formula again after the distribution of the 4.6.

>> Next is recognition number 4 Re: workers claim compensation and health claim liability. The branch is responsible for the conclusion of any workers comp claims as a result of employees that used to be a part of the county. When this issue was looked at as a part of the allocation of improvement of the modernization funds back in August, at that time there were no known claims. Therefore no funds were allocated to that. There have been historic allocations [indiscernible]. This is managed by the judicial branch workers compensation program. Since that time we have a claim coming out of the Sacramento County that we need an allocation to cover those costs of approximately 700 and we need an allocation to cover those costs of approximately \$790,000. Coming from the IMF.

>> The recommendation of the budget advisory committee on that issue.

>> Thank you, Zlatko. We have 4 recommendations. These are subject to discussion or motion.

>> Judge Jacobson?

>> I move to adopt all four.

>> Seconded by Jim Fox. Any further discussion? All in favor of these recommendations please say aye. Any opposed? Thank you. These recommendations are adopted.

>> At this point we are 20 minutes ahead. We are not prepared on any of the other panel presentations at this time because we are running sometime ahead of our agenda. We are going to take a break from now until 12:45. We will start with item L or I, depending on the availability of the presenters and public comment. Thank you.

>> [Judicial Council meeting is on a break until 12:45 PST. Captioner standing by]

>> Hello.

>> Hello.

>> This is Justice O'Leary. We are listening.

>> Hello. This is Mr. Robinson.

>> [indiscernible - multiple speakers] Hello.

>> What you wanted lunch break?

>> Yes, we took a lunch break until 12:45.

>> You are now relegated to answering the phones.

>> I am trying to learn the system.

>> I try to tell them that all the time.

>> We are reconvening the Judicial Council meeting. We are a little bit out of order for the agenda. The first item I will call is item I, the judicial administration will for the advisory groups. We have public comment, Hon. Brenda [last name indiscernible]. Welcome to the podium.

>> I am in charge of the Alameda County Superior Court. I am a former member of the council and I was honored to share [last name indiscernible] on the council. I know the hard work that goes into the rule changes and into taking steps to make improvements in a system of justice.

>> I want to thank and applaud the Chief Justice, Miller, and Justice Hull, and O'Leary, and Jackson, and Jacobson -- all of you -- everyone that worked hard to make changes to this rule.

>> And to address concerns that have been raised by some of the stakeholders.

>> I think everyone is at a point where they are ready to move forward. They are ready to get on with the work of this newly restructured committee. I wanted to say that I appreciate your unwavering commitment to the ideals of access and fairness and but personally I look forward to the work expected from this newly restructured committee.

>> I urge you to continue to exhibit your commitment. Thank you for the opportunity to address you.

>> Thank you for your hard work on this issue throughout the many years you have provided to public service to the branch and the people of California.

>> Thank you, Chief. That means a lot to me.

>> Judge Jackson?

>> Can you find the name that the committee will be called on record?

>> What I wanted to do, in making this presentation --

>> Sorry --

>> He is going to tell you the name.

>> There are a number of recommendations, but if you look on page 2 of recommendation three, we are going to recommend that it be changed to Advisory Committee on Providing Access.

>> At that point you would take off “in the court.”

>> If I could give an historical background on all of this -- this is a process that started soon after the new Chief -- when we met in a closed session to talk about governance, one of the aspects was that we felt we needed review of the advisory committees workgroup and task force and we prepared a list including -- I can't remember how many different committees reported two different individuals on the committees and in person. I did the Judicial Council and the AOC. This is the culmination at the end of the process. We have made many reports over the three years since then. We have some of the committees that liked -- the budget advisory committee that reported to the [Indiscernible]. They reported to the Judicial Council. We are here today to propose to you six different changes. The first is to adopt a rule 10.16. The second is to adopt rule 10.62, 10.63, 10.64. This established by rule the Court Advisory Committee, the Advisory Committee on Financial Accountability and Efficiency, and the Trial Court Budget Advisory Committee.

>> Number three is to amend rule 10.55 and the only change in that regard would be the name. It would now be the Advisory Committee to Provide Access and Fairness. What I want to say in addition is clearly with regard to the access and fairness issue that all of the changes we have made show a continuing emphasis of the Judicial Council and the advisory committee with regard to providing access, fairness, diversity, and issues related to self-represented litigants in the judicial branch. Number 4 is to amend rule 10.48 combining the Conference of Court Executives and the Court Executives Advisory Committee into one group within Executive Committee. Five is to amend rule 10.960 with regard to some technical changes. And 6 is to repeal rule 10.49 concerning the conference and [Indiscernible] That is my proposal.

>> Thank you.

>> Judge Jacobson?

>> I moved to adopt this.

>> Seconded by Judge ---. Objections?

>> Any further discussion on these recommendations?

>> I want to say something that has nothing to do with the recommendation. Quickly, I applaud the work of all today. And many others to do this work quietly and have been doing it over the years. It changed the nature of the advisory committee's composition, and the band's composition, and the employees' composition. I know that the two chairs -- I wanted to do a special thank you to Justice [Indiscernible] and O'Leary for having the institutional history of bringing this forward with Judge Brenda Harbin-Forte to keep this on the front burner.

>> Thank you.

>> If I could comment -- I also wanted to personally thank the justices for stepping up in a time of needed leadership in this area and for all they have done in this area for many years and all that they will do in the future with regard to this committee. Thank you very much to the two of you.

>> Thank you.

>> Not hearing further discussion on the recommendations or a hand raise, all in favor please say aye. Any opposed?

>> The motion is carried. Thank you very much.

>> [Indiscernible] Thank you.

>> [Laughter] Taking a matter out of order -- I am calling item L -- the trust fund allocation to the state level reserve.

>> For this presentation, I welcome Presiding Judge -- Judge DiSanto and Zlatko Theodorovic [Indiscernible] Thank you for allowing us to give a presentation. What I will do today is give you a quick 62nd situation as to the application and options put forth before you and ask that you adopt [Indiscernible] in this matter.

>> The presiding judge -- Steven Barnes will follow me and give an overview of the project and the financing unlike. Then, Mr. Theodorovic will supplement with the numbers of the presentation.

>> In looking at option number 2 -- again, I am not looking at option number one that because that precludes us from getting a [Indiscernible] on this matter. But I am asking the court to adopt option 2 which basically gives \$130,000. Option 3 recognizes there could be an influx of some money coming into the court that would be approximately \$84,000 of what I call new money but really is a portion of the [Indiscernible] funds that the advisory committee recommends. Another portion from the court appointment dependency counsel recommended by the advisory committee.

>> Then, a portion of the 2% return -- totaling about \$84,000. Option 3 says [Indiscernible]. Offset from 130,000. I am here to tell you why I believe that would be a mistake.

>> If you -- right now, Trinity County has 81 employees which is less than it used to be recommended by the models of at least 103 employees. How I think it is 112 employees.

>> We have maintained that through cutbacks and not filling positions. We have closed one courthouse. On Friday afternoons. We have supplemented furloughs. Right now for this year, 21

days of furlough -- I don't know of any other course that does that. In addition, last year -- 27 days of furlough.

>> As an example -- somebody that earns \$36,000, the 21 days of furlough basically is one month pay. Somebody that was earning \$36,000 now takes home, after taxes, \$33,000. The price of milk and bread is standard across the state. It impacts our people here.

>> When we came to you last time, we said we were in dire straits. We still are. This situation is one where we cannot fund our CMS program on the back of the employees. If we take that \$94,000 and basically use it as an offset against money that was supposed to be applied for every year for the TMS project, in essence you are telling me to tell my people they are paying for a new CMS project. I just can't do that. Like is a, we have already taken drastic measures. We will continue to take drastic measures, but I can't tell my people to take more furloughs or lay off more people. With that, if you do not do that, that is new money that will come in the fiscal year and it will probably be a reduction of furloughs given the amount of money given each day of furlough we have had.

>> That is my position right now concerning option 2 versus option 3. Option 2, I believe, would be the appropriate option. Obviously, we all need money. All courts need money. This aligns ourselves with [Indiscernible]. In Kings County, this is what you will hear concerning the numbers on this matter.

>> Thank you, Judge. I am the Assistant Presiding Judge of the Kings County court.

>> My background is in technology. I have to go to everybody us to tell me what to do. One thing I understand clearly is that we came to the Judicial Council with an application that has already been approved. \$733,000 -- we did that in February. We got the [Indiscernible] out of the contract going. We started this project in May. [Indiscernible]. This has been going along well over the next month which is June 2013—the 2013–2014 fiscal year was over.

>> All of the funds that you set aside were held in the trust. We can just spend it. We have to say this is what we want. None of the funds went for anything except CMS. What happened is that we didn't spend all of the \$733,000 because we didn't feel is right to go to the vendor and is a give us a bill for something you haven't given us. We couldn't do that. We have to be good stewards of the funds for any reason. So what happened is we end up with \$470,000 that we haven't spent. That's what you have right now. For the second application -- in the second year just like were made in the first application -- \$600,000. What's the difference? \$130,000. That is why we are here today. The difficulty as you will see later on -- pursuant to the application and assuming [Indiscernible]. As expected. I can tell you that in my experience technology and computers which I have additional experience in—you got me on this governance committee—the subcommittee.

>> [Laughter] I can't tell you how much I appreciate it.

>> [Laughter] I've done the best job I can. To keep as good as I can on what [Indiscernible] is doing in the court. I can tell you that they have gone out of their way as far as I'm concerned to assist us and help us. Perhaps it could be because we are one of the first courts to become a vendor in California even though it they have been improved and have some of the contracts. But they have a vested interest in doing a great job for us. The commissioners -- tremendous hurdles -- everyone talks about giving an update on that. The staff indication is that after it is completed - - my understanding is that it has all but been completed except for a couple of minor things. Tyler even paid a \$10,000 debt out of their own pocket. It was in their best interest to do that. I tell you that to give you an indication that they are doing as I could possibly expect.

>> We have done that one conversion. This is related to a system over 20 years old. All of these things are coming together. We have dedicated subject matter experts. They work on this almost all day every day. We are moving along. We expect the go-live date of September if we have enough funds to pay them to that time. That is all I can tell you about the computers. Maybe someone will ask me questions and I would be happy to answer those. The last thing I would tell you is that again my experience is not in the financial arena, but I can tell you in my experience that I became involved in the beginning of 2007. My review of the court was from the person in private practice for a while. Judge [last name indiscernible] -- we are the only ones on the bench that have private enterprise experience. We know that at the end of the month that there is not enough money to pay all the bills you have to pay your employees first and all your other expenses. There is no money for us to [Indiscernible]. That's the way I look at this. It seems to me that one of the problems that has always occurred is that there has never been enough money -- I can never understand this. This has me on this issue -- I didn't really understand. There is a letter from September 2012 addressed to the [Indiscernible]. This goes through and explains what the initial difficulties were through the model and the [indiscernible] and the Judicial Council. Identifying [Indiscernible]. Although this was not actuated until 2004--2005 -- now my understanding of the way that this would apply to us -- about 2000 of a percent difference which is not a difference of distinction. However, this lease is in a position for the fiscal year 2011 and 2012 we do not have enough funds to pay the employees that we have. That is why we are in this financial difficulty.

>> This would probably not be the best time for questions. But if you do, I would be happy to answer them for you.

>> The \$94,000 we are talking about that make a man, where may that come from?

>> I believe that option 3 isn't it out. There are about 15,000 and [Indiscernible] money. 16,000 [Indiscernible] counsel. And 63,000 from the 2% return. Of that, 18,000 was accounted for in the budget.

>> So, the money that may come in, and from other uses?

>> [Indiscernible] The ones you listed?

>> It would come in and what we would use it -- we promised our people -- to honor the [Indiscernible]. We will produce the furlough. With the furloughs, that is approximately \$420,000 or \$500,000 worth of money -- \$400,000 worth the money.

>> This would impact your ability to do these things in these areas -- whether it is dependency -- that's what you're saying. If you can't reduce the furloughs.

>> If we can't reduce the furloughs, it would be an impact.

>> We already -- we already closed one courthouse. We will probably close another one. [Indiscernible]. Increased furloughs all the way up to the number of days we need to balance the budget. We just can't do that. I've got the keys to the courthouse. [laughter] We have been working with the [Indiscernible]. Our books are open to him and to [Indiscernible]. We do not have our CEO with us today. We have gotten rid of one CEO. We've had gotten rid of the administration staff. You have 2 [Indiscernible] The 1/3 is a part of the second year deployment. In reality, this is a part of the first year agreement. Thank you very much.

>> Judge Walsh?

>> We are on the subcommittee. She reminded me that King is one of the underfunded courts. It remains underfunded. With the first transfer of money they acted prudently. I think this is exactly what the 2% reserve fund was for. Approval of option 2.

>> I second that.

>> I would like to add my second. I would also like to point out not only because Kings County is a neighboring county. Don't forget that the caseload of that court is largely impacted by the residents of every other county in the state that happened to reside in Corcoran. So, I am pleased to second the recommendation.

>> Kings. Judge Herman?

>> I would like to add, Chief -- I am a liaison to court. When they came to us this was the situation that was not created by the court. This was one of the courts for the county basically said you were getting off the system. We are no longer going to support you. It is a locally funded core. They did not have the funding themselves to be able to replace the case management system. This, again, as Judge Walsh mentioned seems to be the perfect match for the 2% to deal with an emergency like this. As a matter of prudence, we decided that rather than giving them the lump sum to acquire the case management system in the first fiscal, for oversight purposes we would have the AOC monitor the funding to make sure that it matched and was paid out over time. So, they are still in an underfunded position. Beyond that they have been carefully looked at to examine their put into use of the funding. The cutbacks on various resources. They have done tremendous cutbacks. I think it would be unfair at this point to select option 1 or 2 given -- [Indiscernible - multiple speakers] 1 or 3.

>> [Indiscernible] [Indiscernible - multiple speakers] Exactly.

>> This is a reminder of the history of where this court has been and where we have been with the court.

>> Thank you.

>> Mary Beth Todd and then Judge O'Malley.

>> I want to ask a question. One of the reasons that I support this motion is because how underfunded you are especially when you take a look at the [Indiscernible] model. I don't want to ignore the fact that you do see a return on investment like next year -- when you are up and running you will see a return on your investment. This is something we need to consider as we look at these programs and when we consider future requests of a similar nature. Normally I would say why can't you leverage the return on investment? In this case, you will get this. You can pay the people a decent wage and restore your furloughs. I want to make sure that it is clear with a full understanding that there is a return on investment and this is a woefully underfunded court. They need the money to operate. With that in mind, I support this motion.

>> IQ.

>> Judge O'Malley?

>> To remind everyone -- when we listened to these gentlemen last year and approved the funding for this, they were in dire straits. We really analyzed this and went over how well the court was run. This was a situation where they were put into this predicament through no fault of their own. They are a well-run court and we recognized and acknowledged this last time when we approved the funding for them to start the new system.

>> So, for them to be back here it was for us to know that the money was spent well. How the project is being managed. It wasn't pulling the rug out from under them at this point. It was to make sure that you were going well and we as stewards of the money would be double-checking this. That is our job on this council, to make sure that money that we administered to the courts are looked after and spent in a responsible fashion. As far as I'm concerned, it has been. They are overseeing this project as best as it can be overseen. I think at this point we need to continue with our vote of last year which is to let them have the system and let them get on their feet. Again, it is through no fault of their own. This isn't taking the rug out from under their feet. It is to acknowledge what a good job they've done in overseeing the monies, and the procedures, and the process of administering the new system from Tyler. Thank you for doing such a good job and being on top of it. Good luck. God speed to get yourselves back on track. I wish more counties were like you.

>> Thank you.

>> Judge Brandlin and Judge McCabe.

>> I was one of the dissenting voices last time before the council. I recognize that Kings County has any -- they have been good stewards. My concern concerns the use of the 2% reserve to fund the management system. This has not been a small court like Kings County. If you were a larger court, we would not have been able to fund it at all. My concern deals with the president and whether or not we have adequate standards for the evaluation or request an authorization and the use of the 2% reserved for that purpose. The concerns I have -- for the courts that are under the [Indiscernible] model will have less money, they were counting on that percent to be returned to them. And the impasse that it could have on them at the end of the year they don't get the 2% back could be devastating. Not because of Kings County; it is a small court. The portion they would not get back is very small. I am concerned about the principle. Thank you.

>> Thank you. Judge McCabe?

>> Thank you. The first instinct from a selfish point of view is that we are all on the Titanic. We have hit the iceberg. We know where this is going. We see another shift and we hope that history will change. We will stay afloat and this will work. The 1% under balance has folks on edge and next year will be the Wild West. Therefore, I know the courts are concerned about getting their share of the 2%. Not now but next year. I understand.

>> However, on the other hand I note that this was thoroughly vetted and contemplated that Kings County would return to the council. I have mentioned this before. What Kings County has going for them is timing. The timing was terrible for the court; however, given the circumstances and the posture of the fiscal state of the judiciary timing, this was on your side. Last year, you came to us because you have the unfortunate consequence, Mr. Lincoln, of being at the theater that day. I think that is why the court saw your plan as although what you went through and had taken extraordinary measures to counteract the shortfall to the point where—I still remember your then-CEO was taking a 30% or 35%—that was ungodly.

>> I think you have gone above and beyond. It's not a matter of fiscal responsibility. I think timing was on your side. Last year. Now it is contemplated by the council. You are at the end. You are in the need of finalizing this very important tool that will have a return on investment for you. I feel for the other courts concerned. [Indiscernible] is one of them. That is not why am on the council. I am looking this from a statewide you and I think this is consistent with what we agreed to do last time you were here. I would consequently strongly urge support for this motion. Thank you, Chief.

>> I could.

>> Judge [Indiscernible] -- seeing no more hands raised for discussion, all in favor please say aye. And 14.

>> Any opposed?

>> Respectfully oppose.

>> Understood.

>> Thank you. Two opposed. Matter carries. Thank you and good luck in Kings County.

>> Thank you.

>> I would like to thank Judge Barnes for his participation on the Technology Planning Task Force. Thank you.

>> [Indiscernible - multiple speakers]

>> [laughter] We are now at item K.

>> I want to raise a concern. The reason I didn't do this before is because I have no concern with them. They are doing a good job. I do think we need to have a plan of how we will do this. One person this morning said, if your staff doesn't get laid off, somebody else's staff will. I need we need to think about how we are going to do this. I said it before. I want to reiterate. I don't think we need to do this ad hoc. You may have to lay off some people. Everybody is having to do this. Everyone will have to have layoffs. I am hoping that -- everyone is a sad story and everyone I would love to get more money. I hope we can come up with a plan and criteria and look at this and how to [Indiscernible] the small courts that are also underfunded.

>> I understand. The bigger problem we are all aware of -- I also know that everyone here realizes 2% isn't going to save the ranch.

>> Judge O'Malley and then Jackson and Herman.

>> The only thing that makes this different than the others: this was, as we determined last year, an emergency. The county dropped them completely. It's not like this was the rest of us -- a system that was keeping it together with patchwork. It was an emergency. It was a crisis and demands that within a certain number of months they had no system whatsoever. Again, it is easy to forget what we did a year ago because we had so many things in the interim. But it was an emergency. It was money that was properly distributed from the 2% fund for that reason.

>> Judge Jackson?

>> I thought we had guidance.

>> We do.

>> To add to that, for those that are not on the Technology Planning Task Force or not on the technology committee, this year in particular we piteously surveyed all of the trial courts to find

out who is anticipating crashing systems rather than simply [Indiscernible] it is systems. So we would have an idea of the landscape out there. There are not a lot of large courts, for example, that have overall systems that are [Indiscernible]. Los Angeles has some aging systems. Systems that continue to work. An approach to that problem has been our recent survey -- courts that wanted to participate in the BCP project. We selected courts to go forward. Hopefully, they will be financed through the process. Of these, three were large courts. Orange County, LA County, and San Diego County --for complete systems, but for systems that were in need. We had two of course that were medium-sized and a selection of small courts. So, there is an approach here.

>> I didn't mean it to be technology. I met the general distribution -- it was not directed at technology.

>> Thank you.

>> This is not ad hoc.

>> There are guidelines. We voted on guidelines.

>> About a year and a half ago.

>> We are on item K. We welcome --

>> The second recommendation in that report regarding the distribution and approval of the remaining balance—what you need to act on—the recommendation has three options. We need -
- recommendation 2 is to distribute the remaining adjusted for the \$130,000 amount rather than --
[Indiscernible] [Indiscernible - multiple speakers]

>> [laughter] I want to give you all some money.

>> Not yours.

>> [laughter] Recommendation number 2, on page 2, moved by Judge Ellsworth in your final act and seconded by Judge Jackson. Any discussion on recommendation number 2? For the Judicial Council to allocate a proportionate share of any unexpended funds from the 2% state level reserve to be distributed after March 15, state level reserve to be distributed after March 15, 2014, to all trial courts?

>> Seeing no hands raised -- no further discussion. All in favor please say aye. Any opposed?

>> The recommendation passes. Thank you, Zlatko. Item K -- Judge Earl with a cochair of Zlatko and we also welcome [Indiscernible] as well as Stephen Chang.

>> Thank you. The Budget Advisory Committee prevents several proposed revisions to the model that have been developed by the Funding Methodology Subcommittee and approved

unanimously by the full committee. As you recall, when the Judicial Council approved the use of this funding model, you adopted our recommendation that the [Indiscernible] cluster be excluded from having their historical base allocations reallocated under [Indiscernible] in the first year. We made this recommendation because we recognized that the model needed further refinement before including our smallest courts.

>> Beginning last August the funding methodology subcommittee recruited the assistance of our colleagues from some of the small courts. Including Judge [Indiscernible] and [Indiscernible] and CEO Kirby from Sierra. We turned our attention to the application of [Indiscernible] on the cluster 1 of course. This work culminated with the first five or six recommendations on the report today which I will introduce as recommendations and then take and Zlatko will provide the details.

>> Recommendations 1 and 2 relate to the determination that report funding -- what funding need.

>> We propose that rather using the most recent one-year data as an adjuster on salary, that an average of the three most recent years be used. We present this recommendation because we recognize that there could be significant cost of labor changes from year to year and that applying a three-year average would smooth out those changes and allow the courts time to adjust to either growth or decline in cost of labor.

>> This recommendation would apply to all 58 trial courts. Recommendation number 2 established that bash establishes a per [Indiscernible] dollar allotment for courts with fewer than 50 FTE. The floor is the median BLS-adjusted average dollar allotment of all courts with the need of fewer than 50 FTE. Application of this occurs when courts average adjusted NCE dollar allotment is lower than that medium. During the work, we found that some force FTE dollar allotment was unreasonably low making it almost impossible for them to afford necessary staff. We feel that establishing a per Left TE dollar allotment for courts with fewer than 50 employees would effectively address the ability of these courts to hire and retain necessary staff. Recommendations 3, 4, and 5 relate records allocations. The recommendations provide for the establishment of both an absolute funding floor of \$750,000 and a graduated funding floor to slightly larger courts. In bringing this recommendation we acknowledge that there is a minimum level of funding necessary for a court to be able to perform its services to the public. Good work of [Indiscernible] and Debbie [last name indiscernible] a number of colleagues from the state's smallest courts, we have identified where the minimum funding levels should be. If you approve this recommendation, the result will be that any trial court whose allocation would fall below those levels would be guaranteed funding at a minimum level. This of course means that funding up the shortfall would be accomplished by reducing the allocations of those courts that do not qualify for the funding floor levels.

>> Should you approve recommendations 1 through 5, we would then ask you to approve the sixth recommendation would in effect include cluster [Indiscernible] in Rhea a location under [Indiscernible] beginning in the next six to year 2014 and 2015.

>> I will turn it over to Jake and Zlatko to discuss the specifics and we will address the recommendation number 7 when they are done.

>> Thank you.

>> I apologize for the lack of my voice today. I don't have a whole lot to add, except for recommendation number 4. Recommendation number 3 establishes the minimal floor, and I wanted to talk a little about how we identified that amount. Again, the charge here was to determine whether there were ways to modify the model to bring the model towards the [Indiscernible] to allocate along with the rest of them.

>> A group of [Indiscernible] -- Trinity -- they volunteered to open up their general ledger accounts and we looked at those through those to identify what it would take to open up a brand-new court in the state of California.

>> Here we have a new county -- it is a rural county. We don't have any filings -- what it needs to look like in terms of staffing so they can cut the first filing. The idea here is that at some level it will get so small that the workload is not enough to justify the amount.

>> For the filing -- until it exists. Would it be necessary on the [Indiscernible] side?

>> Separately, which is the operating cost? Beside courts need a lot of work -- we appreciate the support. Identifying taken out the one-time cost and say this is what it looks like.

>> And the materials that they went out -- they had one method -- we also used this -- for the property expenses and the numbers were the same.

>> Looking at that staffing model along with the operating expense, it came to \$750,000. A little less -- we rounded this out.

>> This creates [Indiscernible]. This only impacts a small number. That is the intent.

>> That was the recommendation.

>> Next -- let's say you have \$751,000. That doesn't mean the workload all of a sudden is now one or percent of what you need. There is still a lack of economy to scale. We need to develop a graduated work on that. This goes up to a point and if you are curious about where the dividing line is, it actually gives it a point where the minimum number of judgeships -- 2.4 -- there is a dividing line there. So we use that at the top of where it starts to impact.

>> [Indiscernible] The last bullet -- there were a couple of courts that received a very large increase. It was multiple. A [Indiscernible] number in terms of percent. It was rather large. The general feeling was -- while we are struggling, it didn't seem appropriate for them to see that

much of an increase in a year when everyone is [Indiscernible]. That is applied so the court can receive no more than 10% of the prior year. There are some nuances to that recommendation.

>> [Captioners transitioning] It is one through six.

>> To me it seems artificial. And less arbitrary -- we are becoming a tax code. It is becoming more complicated we are not -- because we are not going to open a new court. I do not know why we are looking at these adjustments. What I consider to be in an arbitrary way.

>> We looked at this --primarily we are looking at [Indiscernible]. We did have a larger section and we decided this was the correct amount of money to open up the court. That is not even enough to operate. They did a good job [Indiscernible-low volume]

>> It does seem arbitrary to have a new account. This is how they operate every day. This is going to be for all three of them. And the [Indiscernible-low volume]. It is a small county.

>> I was a member of the original funding methodology committee. It grew by invitation or party pressure but they were all welcomed. I will note -- there was tension. Because there was a parochial view from the court. It was broken and I will give credit to Jack Clark, the former CEO in Los Angeles. He articulated what everyone was thinking. We have to come up with a floor. Because the small courts are nervous about talking about [Indiscernible]. There is going to be a justice court. In your county. And that floored us. Because it was hard to argue with that. We knew that the concept was one that was unanimously embraced by everybody. There was a discussion of caps. Is this artificial -- I think you can argue that. But the bigger picture -- we have to guarantee to every citizen and every county in every state will have a courthouse. And even more coming from Los Angeles.

>> [Indiscernible-multiple speakers]

>> This brings an historical notation to your view in the context that it resonates -- and it was noted that the smaller courts will have a benefit and larger courts [Indiscernible-low volume]. That is the price for living in a society that is free. I think it is a good thing. I support the motion.

>> David Yamasaki.

>> Thank you. When we listen to the explanation on how we landed on the floor four funding it was just a fraction on all that we went through. We assemble all these experts to evaluate what it takes to run a court. We did not just choose a number we thought sounded good but rather what the court needs. They have to be able to function. The analysis was expensive and the conclusion was unanimous in our group. Whether the poor should be in tightening all of us -- it was based on sound judgment. This is a proud time for this council. We decided to give additional resources to another court. They were under the worst condition financially even to function. We gave them \$130,000. We need to have a base for our courts to function. This is not something I can

say will happen. We made an enormous change to the judicial branch in California. I would urge you to support the motion. I would certainly vote for if I was able to.

>> Judge [Indiscernible].

>> I apologize. I would vote for it. I would like to say this is not an exact science. Everything can be construed as being artificial. But it is about doing the right thing. I appreciate your leadership and your team. I would vote to approve this.

>> I do appreciate everyone's comments. You all had very elegant statements. I want to thank Judge Earl. And this council for recognizing [Indiscernible-multiple speakers]

>> [Laughter]

>> We will see you in Idaho.

>> There was the motto that was adopted last July for the small courts: recognizing them and doing something about it. At informing what we call the small court adjustment committee. And I do not want to lose sight of that history. I want to thank Mr. Shattler. I thank you so much for your leadership and skills you brought forth. I want to recognize [Indiscernible] in Stephen and your staff. And under the watchful eye of Judge Earl. He was constantly advocating to stay true to the integrity. To maintain the best we can. I think the committee strove to do that. And recognizing that because of the economy that is weighted on filing. I want to recognize Tammy Grimm not only understanding the math but the allocations. And Judge [Indiscernible-low volume] who was tireless in her advocacy. We certainly recognize the adjustments here -- the funding is not coming from the same pie. It's coming from different courts. There are leaderships that can see the need and make adjustments. And recognize that it is coming out of their pockets. One size does not fit all. This does require adjustment when dealing with smaller courts. It limits our ability to share and [Indiscernible]. I am grateful that you recognize the need for a floor. There is a work-based allocation model. Is it referenced? Does it have a preference? No. I want to let the cluster one courts now we support these six recommendations. We have not identified the cause of the anomaly. And the recommendations [Indiscernible-low volume]

>> I think it will give them peace of mind. Especially giving filing fluctuations. And there is the uncertainty of the [Indiscernible]. I think what is important is that the recommendation came out of all 58 trial courts.

>> I think it is important to have one methodology for all 85 courts. My request would be to ensure -- as mentioned in the review board. This should remain an issue. It should stay on the radar for the budget committee. There is a reference on page number six in the report indicating the circumstances in the small courts which is important. I advised -- look carefully on how this is going to play out. And make sure that any inequities are addressed. And listening to comments from the cluster courts. I also want to thank you one more time.

>> This workload-based system, I certainly support it. But understanding what we do today, we are reallocating money, which comes from other courts. We are reallocating money not based on workload but size. I think we are creating another historical anomaly. To use the work-based system. There was a comment made by Judge [Indiscernible].

>> Let's remember that cluster courts are not included.

>> We have to provide [Indiscernible] to get them to a point when they can operate. And that is essentially what it does. Recognizing when you talk -- the differences in the courts. It is more difficult to get the job done than those from a larger community. We recognize that inequity does exist in the smaller courts.

>> Judge Stout said keeping an eye on this issue. We will always be monitoring this and reporting back to the council.

>> This is a good time to introduce motion number seven. There is a need for an advisory committee. Looking at the metrics -- there was a discussion under special circumstances. And that the workload value is accurately collected. And so the recommendation from a budget advisory committee -- we want to work with the council on these issues. And we need to study these special circumstances. At work with the executives on how to gather the data. There are many parts of this issue. Many are following [Indiscernible] in a new parking lot issue. And having access to remote courts. We were asked to look at this. In this case the workload analysis needs to be done by those who are on the advisory committee. And that is another recommendation. And this is another issue we have on our list.

>> Mary Beth.

>> With respect to this item I served on the advisory committee and [Indiscernible] [Laughter] it is just like Alice in Wonderland. It was interesting for me to be on both committees. We did not want to step on any toes. But we wanted to talk about how far we should go. I want to make it clear that [Indiscernible-low volume]

>> My concern is with the recommendation. I do recommend that we look at it. I do not know if we should tell them what to do with the analysis. There are a lot of things that come up in these cases. It is complex and capital that a lot of people come up and want to add to the model. First of all we do not [Indiscernible-low volume]

>> We are working with the courts to get at least to a point where we are all reporting consistently with that 20-case category. This is like walking before we run. We need to approach this carefully. I know with the smaller courts a lot of discussion was on how to approach, how we modified methodology. In the end, it shifts a lot. The committee should look at how we analyze that data and how we can compile the data into a resource. I recommend that we make it clear that we are directing [Indiscernible] once they collect this data. We should look at it if it is

appropriate and makes sense for the model. And then come back to us and tell us how they should use it.

>> Do you like this language?

>> I guess. It is important that we collect the details. Because the case category that has such an impact that should not be counted is undermining the integrity of the model. When we get into this detail it is going to open all of these other cases. So I think we should stop at this higher level. But then they can come back with a recommendation. I think there are many reasons to collect the data. I think we should collect the 20 broad categories. And we should report our data to this level.

>> David Yamasaki.

>> Like Mary Beth, I also serve on both committees. One recommendation: in my opinion, by focusing on the special circumstances that means it is going to take away other cases. I think we should look at all of the cases. I know that the work required would be substantial. But the other thing that struck me problematic. As I understand it, if we only look at special circumstances court why it is a three-year adventure? We are going to be [Indiscernible-low volume]

>> I think we should look at all of the case types with greater detail. And then after three years come up with a recommendation. I know it will take a long time. And that is the reason why I have dissented from this recommendation.

>> Thank you.

>> Judge Walsh.

>> I was on Budget Advisory and I support your position. I think we still disagree. [Laughter]

>> I want to make one clarification. In the body of this report it talks about other alternatives. There were other types of cases that should be included. In a report that has complex civil cases. I want to be clear in this recommendation -- we use the term special circumstances that we mean death penalty cases. I think we should make this clear. We might want to say death penalty cases.

>> It is only death?

>> Yes.

>> Back should be changed.

>> To make it clear.

>> I would suggest -- that we change it to death penalty cases.

>> I was speaking to Judge Earl. I think we wanted to in Congress the district -- encompasses the district [Indiscernible]. Both death penalty and the request we got from Alameda County.

>> [Indiscernible-multiple speakers]

>> I have Judge O'Malley and then Commissioner [Indiscernible]

>> I do not have a problem with this committee studying this aspect. But just note -- there are certain cases—death penalty cases—that are handled differently from county to county. With one county it can be a matter of weeks and with another county it can be a matter of years. How do they perform? How long can they prolong these cases? There is the district attorney will note special circumstances that could qualify as death penalty cases. And then [Indiscernible] under special circumstances. We have a myriad of different things that go on: investigations, meetings, mitigating circumstances. And that might be handled differently from county to county. I caution against comparing the number of days because there are efficient ways to handle these cases. Los Angeles, which handles most of them, and in my opinion they do not do it efficiently. I want you to be aware that this is going to translate into dollars. And some counties are going to have to change their ways.

>> We have Leah.

>> I completely agree. This is an issue. One goal is to update the work flow and to update the models every five years. And that is coming up. We agreed that we can include studying the types of cases as part of that. It is possible that at the end of the analysis -- it might not be feasible to come up with separate [Indiscernible] proposed categories. It might make more sense—the line where it says when maybe we should say—if.

>> Commissioner Alexander.

>> Special circumstances mean different [Indiscernible]. Maybe we can ask them what case types we should study and do away with -- coming back to us. And to give a weighted caseload two different things not just these cases.

>> Judge Baker.

>> It sounds to me as though the recommendation for number seven is premature. What brings the recommendation before council is the part that -- where we are directing the trial courts to collect the data. It is beginning to sound to me as though there is an interest -- for this study to be completed. And after performing the study -- whether or not to require [Indiscernible-low volume]

>> Judge Earl.

>> I think there is a confusion. The methodology subcommittee recognized in order to win proves the law it would be helpful if we had special circumstances homicide cases. We make no comments on what else they should study. We think it would be helpful in the court if this type of case was studied. We wanted to have our feedback.

>> This is not to the exclusion of other case types?

>> One advisory committee cannot advise another advisory committee. It has to come from council. I appreciate that last part on what you suggested on what we study. I think we have to approve this. And this is the process we are going with.

>> Judge O'Malley made a good point. It is up to [Indiscernible] not us.

>> Should we change the word "when" to "if"?

>> Yes.

>> Should it not just say homicide?

>> Some special circumstances are not just the death penalty.

>> What we have in mind -- if you can do what -- we want you to at least look at those cases that are on the table.

>> Should we say death penalty? Or homicide?

>> [Indiscernible-multiple speakers]

>> The recommendation is limited to the death penalty.

>> Number seven, special circumstance needs to be amended to death penalty.

>> Because it's so if he [Indiscernible-low volume]

>> I am not sure how to describe it.

>> Jim Fox?

>> We would always file a special circumstance, which most DAs will do. In San Francisco, you will never have a death penalty case. You might have a special circumstance case but not a death penalty. Most prosecutors file for a special circumstance. Or through the grand jury proceedings. And then further investigation. But at some point—hopefully—if we decide we are not going to seek it or we do not believe we will be able to obtain it we would take it out at death penalty status early. Because [Indiscernible] is reaping 982 funds.

>> Judge Brandlin?

>> As my recommendation -- if you have an eligible case. It is not after the preliminary hearing that the DA's office will evaluate whether they are going to seek the death penalty. You have other things in between including medication, as experts and investigators.

>> Should we suggest an amendment?

>> Now it reads special circumstances and death penalty and not to the exclusion of anything else they may think. [Indiscernible]

>> We are making a motion. And all in favor? Anyone opposed? Thank you. The recommendation has passed.

>> I am grateful for all of the hard work. And how you continue to refine it and try to be true to [Indiscernible]. Thank you.

>> I want to say that Leah has been invaluable with all of the work we have done. We are discussing together -- with Kristen and others [Indiscernible-multiple speakers]

>> Thank you.

>> That was my last comment. I am wondering if they committee can study with a different acronym? [Laughter]

>> You mean going through all these rules in changes? [Laughter]

>> We conclude today's meeting with a remembrance—Judge Elisabeth B. Krant. This concludes our February meeting.

>> This is Judge McCabe. I have a comment. I appreciate the fact that we have these council meetings here in Sacramento. As the budget hits, it expands and completes our role as a council member to remind ourselves to improve our relationship with our legislators. I encourage you to do this next January.

>> These meetings did not happen by accident. We had a big powwow. But I do thank you.

>> I want to thank you for all of that technology and for all of the things that you had done to accommodate us. Thank you so much.