

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.

Event Started: 12/12/2014 11:20:27 AM ET

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>> The meeting will begin shortly.

>> Good morning. This is the business meeting of the Judicial Council of California for December 12, 2014, plus we have special guests Saturday. Welcome. Welcome. Thank you all for being here. I also want to indicate that we have many members attending by phone. As we did yesterday for our educational meeting, I ask you please to identify yourself.

>> Debra Pole, Los Angeles.

>> Donna Melby, Los Angeles.

>> Emilie Elias, Los Angeles.

>> Judy Ashmann-Gerst, Los Angeles.

>> Jim Brandlin, Los Angeles.

>> Morris Jacobson, Alameda.

>> Good morning. Dave De Alba, Sacramento.

>> I believe Gary Nadler made it in person today? Very good. Welcome again. As I said yesterday, I know it's always hard to be able to speak when you are on the phone. Again, feel free to speak up so that we know you would like to be heard. So we appreciate you calling in. This is our December meeting. It is traditionally a meeting that concludes both of our calendar decisionmaking and policymaking of the judicial branch and our Judicial Council. It also is a time where we set out our legislative and advocacy agenda for the coming year. In a way we reflect on our past and wrap up some loose ends on our competence for this year. But we also look forward and consider the work that remains to be done in the future. This year I believe this process is vividly illustrated in past, present, and future especially by the presence of two people.

And that is, of course, my left-hand man on council, Supreme Court Justice Baxter. And the faculty participants in the Judicial Council new judicial officer orientation program in the audience. But also by a third here, and that is the justice in the audience. Welcome.

>> [Applause]

>> First, a little bit about NJO. I was pleased to have the faculty and new judges join me in my chambers earlier this week; also with Frank McGuire and Kenneth So. I understand later you met with Martin Hoshino and others. So we welcome you. I want to acknowledge faculty for NJO. This is work we do for ourselves, passing on this experience. We do it on a voluntary basis. I'd like you to stand please. Hold your applause until all are mentioned: Presiding Judge Denine J. Guy from Superior Court of Santa Cruz County; Barbara Kronlund from the Superior Court of San Joaquin County; Norman Perry Tarle, Superior Court of Los Angeles County; and William S. Dato, Superior Court of San Diego County. Thank you for your service.

>> [Applause]

>> We also have the 12 new or newer, depending on how they are termed in comparison to each other, judges and commissioners participating in the program. I'd like you all to stand and I will announce you individually. From the Superior Court of Los Angeles County: Judge Rupert Byrdsong, Judge Sherilyn Garnett, and Judge Christopher Lui. From the Superior Court of Orange County: Judge Thomas Delaney and Judge Nancy Zeltzer. From the Superior Court of Contra Costa County, we have Danielle Douglas; and from the Superior Court of Tulare County, Judge Nathan Ide. From the Superior Court of Fresno County: Heather Jones. And Commissioner Leanne LeMon, Superior Court of Fresno County. From the Superior Court of Kern County, we have Commissioner Alisa Knight, and from the Superior Court of Sacramento County, Judge Jennifer Rockwell. From the Superior Court of Shasta County, we have Commissioner Tamara Wood. We hope to eventually see you sitting around this board room and serving in advisory committees. Thank you for being here.

>> [Applause]

>> Before we officially start our meeting, I'd like to say something that I think echoes true for all of us in this profession. We've all benefited from the guidance and support of role models, mentors, peers, and colleagues throughout our careers. Many jurists have been even fortunate enough to learn from Justice Marvin R. Baxter. Over 700 judges in California were appointed when Justice Baxter served as the judicial appointment secretary to Governor George Deukmejian. This January, Marvin will conclude 32 consecutive years of public service: 24 years as an associate justice of the Supreme Court of California, and 18 years of dedicated service to this Judicial Council on the left side of the Chief as the vice-chair, improving statewide administration of justice for all Californians. At our recent Supreme Court oral argument in Los Angeles, his friends and our colleagues shared the following list of characteristics of good judges that all apply to Justice Baxter. And to which we all knew and

long-serving jurists could aspire to possess. These are common sense, integrity, poise, courtesy, humility, a sense of humor, patience in court, open-mindedness, impartiality, intellectual courage, creativity, strong concern for justice, knowledge of the law, adherence to professional ethics, avoidance of impropriety, punctuality in court, decisiveness in judicial rulings, and sound judgment. And last night, all of us were there at the reception, Justice Baxter received a resolution commemorating his many years of outstanding public service as he modeled all of these characteristics of a good judge. And today is Justice Baxter's last Judicial Council meeting. I don't know what you and Jane will do with 18 years' worth of Judicial Council binders. As is our custom for departing members, we have yet another tome. And that is in a few moments I will present you with a copy of the Federalist Papers. Justice Baxter leaves a rich legacy to the people of California that will last for many, many years to come. His legal reasoning has significantly contributed to what we call our documented state, and it is our Supreme Court opinion and the rule of law. His sage advice as vice-chair of the Judicial Council for 18 years and chair of the council's Policy Coordination and Liaison Committee for 16 years has helped our branch to mature and grow strong as an independent coequal branch of government serving all the people of California. And I for one am grateful for his steadfast support for the judicial branch and rule of law, and the policies of the Judicial Council as he has overseen so many changes in our structure and strength as an institution. I'm grateful always for your guidance and your friendship. Please accept on our behalf a copy of the Federalist Papers to read in your retirement.

>> [Applause]

>> I just can't thank you enough, Chief, for those comments. And I look forward to reading the Federalist Papers on our next trip.

>> [Laughter]

>> In lieu of Judicial Council materials. The one thing I will miss a great deal are the relationships that have been formed over these 18 years, not only on the court having worked with three Chief Justices and 12 associate justices, during the 24 years on the court, but also the relationships formed here on the Judicial Council during the 18 years of service. I regret that those who are newly appointed to the council, I only had a very limited opportunity to get to know you. But anyway, the responsibilities are tremendous. But I'll always remember that no matter how controversial or divisive issues might be, the manner in which the council under the leadership of the three Chief Justices I've worked with has always been so professional and so responsible. And we may disagree on issues, but never in a disagreeable manner. So I thank you all for that. And I'm just heartened by all these young-looking faces.

>> [Laughter]

>> Thank you, Justice Baxter. Before we move on, I will open to any council members who wish to make a comment.

>> Justice Miller?

>> Justice Baxter, like we said yesterday and I'm sure at many of the other events, we will dearly miss you. I wait at every meeting for your sage advice. And I have to tell you that it has been so helpful in all the difficult decisions we've made over the last four or five years we've been together, and like Justice Hill said yesterday, I kick myself because most of the time I wish I had thought of that. But I will miss that because you have a way at the end of our discussions to put it in a concise order with the correct resolution. And it's beautiful and it is you. Thank you for that. Thank you very much.

>> Thank you, Justice Miller. We have business to attend to. On your agenda, the first is the approval of minutes. And I'm informed that we are not ready yet for that. So that may be subject to a circulating order. So we'll move on to my report. As you know, this is an opportunity for me to summarize my engagements since our last council meeting: ongoing outreach activities since our last meeting, which was October 25. My engagements during this reporting period took me from Washington, D.C. to Fresno, California (with many of you); two centers of political power in our nation; and also places beyond. In our nation's capital I attended the annual Rehnquist Award reception hosted by Chief Justice Roberts. I attended that with Martin Hoshino and Donna Melby. I attended a meeting of the Board of Directors of the Conference of Chief Justices. I am a member of that board, expiring in 2015. There, I attended conversations with the chief justices, all the chief justices attending that conference engaging with our justice system partners from the legal profession. We also had a Justice Roundtable where we were advised on civil justice improvements for the 21st century, which was moderated by Oregon Chief Justice Tom Palmer. It's a committee of exceptional people who are looking at changes to civil justice and our own Los Angeles Sherry Carter serves on that committee and I understand she brings the news of California to the committee. In Fresno, which took on the appearance of our state capital for the Justice Marvin Baxter retirement tribute dinner, I would say it looked more like Oscar Academy night. Except that there was a blue and white Corvette parked out front. I joined over 850 other friends including many of you. These are admirers of Justice Baxter in celebrating his career and the compliments for Justice Baxter in Fresno with his family and friends and relatives, and folks from kindergarten and college who've been with Justice Baxter from the beginning. This was just one of a number of recognitions that I've had the pleasure of attending for Justice Baxter's retirement. Martin and I had a very engaging conversation with Governor Brown at his office in Sacramento in November, and we continue to have regular contacts with the administration as we head towards the January state budget proposal. I also had the pleasure of participating in what I believe is an important part of taking public office, and that is when I administered the oath of office to the newly elected state senators in the Senate chamber. Judicial Council Governmental Affairs facilitated two more liaison meetings with justice system partners. We met to discuss various issues with the consumer attorneys of California and separately with the Public Defenders Association and the California Attorneys for Criminal Justice. We had much to talk about regarding Prop. 47, and the impact on the courts, and the meaning of the initiative. I met briefly with the board members of the State Justice Institute as they consider whether to grant applications for next year to support their goal of improving the quality of

justice in California. Also Judicial Council staff, Martin, and Jodie, and Curt and Curt were there also updating them about what's happening in California and our need for grant money for some of our initiatives. I also engaged with foundations, legally defensible organizations, law firms, and the legal community at a reception celebrating California courts. This was hosted by Justice at Stake, a national organization, and they are concerned about the impact nationally of attack style ads in judicial elections and retention on fair and impartial courts. They've been active in Iowa and Florida and Alabama across the country in trying to stave off the unnecessary political attacks on the judiciary. The 50th anniversary of the Civil Rights Act was a theme from my state of the judiciary address to the Legislature early this year. It was acknowledged recently at an event to celebrate equal rights advocates' 40th anniversary. I had the honor of participating in a conversation called, "A Conversation among Women Chiefs." I was on a panel with federal Chief Judge Claudia Wilkin and Senior Presiding Justice Joan Dempsey Klein from our Court of Appeals and we discussed diversity in the evolving world of women in the judiciary and the legal profession and the need to push for further action. Although Justice Klein will retire at the end of this month at 90 years of age, she will join me on the bench one more time on December 22 when the Commission on Judicial Appointments will consider the appointment by Governor Brown of Ms. Leondra Krueger to the Supreme Court of California. Likely given the composition of our bench, this will be the last time an all-female commission on judicial appointments panel will convene in. Joan was a true trailblazer for all women in the legal profession. At a hearing earlier this week, just this Wednesday, our panel which includes Attorney General Kamala Harris, and Administrative Presiding Justice Brad Hill, and J. Anthony Klein, and myself voted to confirm two justices for the First District and one for the Fifth District Courts of Appeal. These are welcome additions to their benches and I know you know these folks. We welcome Justice Smith and Justice Marla Miller and soon-to-be sworn Justice John Streeter to the appellate courts. This week, Tuesday or Monday, I also hosted my annual press briefing with representatives from local and state media legal affairs correspondents and reporters and a national news agency. We sat around the table for an hour and a half, had the opportunity for them to meet Martin. We talked about budget appointments, the impact of ballot measures, and those were some of the themes including inappropriate things about how I voted and who baked what. But as we discussed much, relationships have much improved. Also Martin was able to share some of his observations and, in his words, his honeymoon period here at the branch. The future as it relates to California's youth was the unifying theme for three of my other engagements. There was a leadership summit called "Creating Leaders for the 21st Century" organized by the State Bar of California Council on Access and Fairness. There was the tenth anniversary celebration and recognition for the Marin YMCA Youth Court, an incredibly productive and life-changing court in Marin. And a summit organized by the Center for Youth Wellness, "Children Can Thrive," California's response to adverse childhood experiences and what we see when there isn't a response on the impact in juvenile court and dependency court. So engagements such as these show me that the future of our state is in good hands with great initiatives and many leaders and young people. Children can succeed if they are given a chance and given support, and that keeping kids in school is a worthwhile effort for all of us. I believe, speaking of children, in the youth and leadership, and the new year, it's appropriate to end my

report on that positive note and what I believe optimistic note. That concludes my report. I'll turn this over now to Martin Hoshino for the administrative director's report.

>> Thank you, Chief. Chief, I forgot we had actually done all of those things in that window of time. It's been a very active and busy period of time. The regular written report from me to the council is in your materials. Their documents—a fairly substantial amount of activities going on at the council both among Judicial Council staff as well as the work of the various committees and subcommittees and working groups—are summarized there for you. I thought however, I would also then pull out some sections of things we're working on to highlight them. And I pulled them out because there are two things that have dominated the landscape of at least my time and of many of the members of the council and many of the members of our judicial family in the branch over the last period in between the last meeting and this one. They are Prop. 47 and the budget-making process. I had the good fortune of watching history play out, on November 5. This was the day after Prop. 47 had passed. It was just by happenstance that I had scheduled a visit with the Yolo County court with Judge Rosenberg. And to be there on November 5 that morning, and November 4, the voters have spoken and Prop. 47 was now the law of the state. And there I was witness to what was part of criminal justice history. It was just literally fascinating to me, to the point that I couldn't contain my enthusiasm as I watched Judge Rosenberg, and work and work with all the justice partners and the folks that were there. Court opened at 8:30. At 8:32, we were talking about Proposition 47. There I watched Judge Rosenberg, the district attorney, and various defense counsel members answer one question which only lead to two, or three more, or four more. So on and so forth. It was just fascinating. And I have to confess, just being from the criminal justice system, being downright giddy watching it because it was history in the living. And I had an appreciation for it to the point I think Judge Rosenberg, being the person that he is, the well-mannered person that he is, I think it was getting a little a little bit under his skin because he was really doing all of the work. I must tell you we had to tase Martin at one point.

>> [Laughter]

>> That was really easy for me because I was the witness to it but not the actual person who had to list all of those files and make the stuff happen and deal with the difficult problems that had to be solved as they developed. So from that day, I toured his court but left and went down to the capital of California. To immediately start to talk about what I had seen and what was happening in California. And so that experience was very important because I saw the workload and the dimension, and it began to spread more and more, not just beyond the judicial branch but to some of our law enforcement partners. This is going to have effects throughout the state more than anybody could surmise, even in the minds of the proponents. So we've been engaged in a lot of activity. I want to thank Judge Slough and Mary Beth Todd. They've been instrumental in helping us quantify and identify the workload. Also presented a great opportunity for us to collect and work collaboratively between the council staff as well as the trial courts where this is all playing out. Together we've been learning about what is going on in setting about quantifying the impact and the new workload that is there now because we know that there's that analysis to

be done here at the end of the day on this. So as I sit here, the survey is in its final stages. It is an amalgam of some of the trial court's work as well as our own work that is going to be going out shortly: to the trial courts that start to collect workload information, all building toward hopefully a way to explain and justify resources to manage what is a big and sweeping impact in our workplace. Our message on Prop. 47 has been—coming out of what we are coming out of—by that I refer to the budget reductions as well as reductions in our reserves. It's harder for us to absorb a workload like this and the effect of Prop. 47 is to make the things that were difficult and struggling with more difficult, and more of a struggle. And worse than that, out of the reductions, there's been in my opinion, very quickly here easy to see, lots of innovation and change in business practices in these things that we are engaged in. And the prospect of Prop. 47 landing in our operations will serve to either delay, or reduce, or slow down those innovations and efficiencies that are starting to happen in our system. And so I think this has been really essential. And I don't think I can overstate the need to press on this particular issue in that manner. That there should be some remedy, or some relief, or some resistance in this area because the consequences will get worse for what is occurring here. On that note, we're not alone. As I mentioned, the criminal justice system is adjusting statewide to this. What we did is we convened a meeting of all the players including Department of Finance officials and officials from the administration as well as from the sheriff's office, and from probation and from Health and Human Services, and the state hospitals. This is a big deal, and it has a wide impact. The first meeting was really about spotting issues as what we call it, to try and figure out all dimensions of this. We have some follow-up meetings scheduled, and we expect this will occur hopefully during the course of six months or 12 months to come as we begin to continue to grapple with that. So, there's a fair amount of activity on that. I don't expect it to abate as we work our way through that. We are going to try and figure out how budgets get put together for this. Those will be predicated on certain assumptions that I assume we will revisit, those assumptions during the course of the year as the actual impacts begin to play out over the course of the year. And turning attention to the larger budget work, the Trial Court Budget Advisory Committee is continuing its work. The primary focus is for some of the reduction allocations related to getting down to the 1% reserve. My understanding is that they will be making some presentations and recommendations in that regard coming up in January. So that is some information and some activity that is headed the way of the council at the next meeting. Our Government Affairs office has been working on cataloging another year of impacts of reductions but also taking it another step forward for the things that folks are doing to adopt. And I think there's good news there. Last, there is a general fund update series that will be completed here. As we get into the end of the budget season in preparation for the Governor's proposal, our Finance office will be getting that update from the Department of Finance. So that will help everybody keep informed of what the overall state budget picture is. I think I would anticipate that not just in these last couple weeks of the budget development but also after the budget, there is to me a growing sense that there should be a broader discussion of those over the course of the year about how the judicial branch budget is funded. What are the streams and sources, literally how it is wired and whether or not we can have a discussion and work on a more stable funding source, or funding system, or model for the judicial branch. We started these discussions both internally in our family and started the discussions with the Department of Finance. It's my

impression that we should spend some time threading the challenges of our current year and the things we are experiencing with what might be our longer-term plans. And I'm looking forward to working with members of the judicial branch during the course of the year on this. Last thing is, I've been able to get out and actually visit some of the trial courts. I think the last time I had only been able to get to Los Angeles in one of the district courts. But since then, obviously, I've been able to go to Yolo court, then spent some quality time in Sonoma court. Fresno or Fresyes was a fantastic experience with a lot of innovations going on. And I got that from them, the Fresyes part. They're very proud, hard-working. They have come up with some things that can be scaled in other parts of the state. It's little secrets, but we need to not have those secrets. I think everybody should benefit from some of the great things they've been doing down there and likewise at San Mateo. I hope to continue this to try and visit as many courts as I can but at the same time keep a reasonable pace since there are other demands and I feel like if I just did that, then I wouldn't actually be serving the council or the branch as a whole, but that concludes my report. Looking forward to working on some of these issues over the course of the beginning of the new year.

>> Thank you, Martin. Appreciate hearing your thoughts. Next, we will hear from the internal committee chairs with respective Judicial Council presentations, first from Judge Kenneth So, on the Policy Coordinating Liaison Committee.

>> The committee has not met since the last council meeting when we reported that PCLC reviewed and adopted recommendations on legislative priorities and proposals for council-sponsored legislation. The priorities and legislative proposals are all on today's agenda. The Legislature reconvened on a similar one for the swearing in of newly elected membership. They will reconvene the first week of January for the first year of the 2014–2015 session. We will update the council in future meetings as legislation is introduced, positions are taken, and council-sponsored legislation moves through this process. Thank you, Chief.

>> Thank you, Judge So. Justice Doug Miller from Executive and Planning Committee.

>> Thank you, Chief. My regular report will be posted online. Yesterday Executive and Planning met with the chairs of two important and influential advisory committees: Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. They are both ably served by Judge Marsha Slough and CEO Mary Beth Todd. The purpose of our meeting is to review the annual agenda. I just want to note this process was one of the reforms instituted by the Judicial Council approximately two years ago. Reform was inspired by the Strategic Evaluation Committee's recommendation. Again, thanks to Judge Wachob, and Judge McCabe, and Judge Ellsworth for those recommendations. This new reform with regards to the annual agenda was to improve Judicial Council oversight of the many important advisory committees. In the past, Judicial Council members often had little idea about what the advisory committees were working on until it arrived here at the Judicial Council meeting. We even didn't know sometimes what the various committees were reporting. We changed that. We now review all the advisory committees. We streamlined the advisory committees, and make sure that every single

committee reports either to an internal committee on the Judicial Council or to the administrative director. We also instituted more detailed and significant annual reviews of each committee, where they tell us the work that they do, the work they've accomplished, and what committees they would like to form in the future. Also, it should be noted that all of this is done—the annual review process—in an open public meeting. It's a simple reform that provides proper oversight and governance that ensures that all the components of our judicial branch are marching in the same direction as it taps into the creativity and energy occurring throughout the branch with over 400 individuals from the branch working on the different advisory committees. In reviewing the work of the presiding judges and Court Executives Advisory Committee, I was especially pleased to hear Judge Slough and Mary Beth Todd suggest creating small subcommittees to serve as resources for other committees such as Court Facilities and Technology. They noted that other advisory committees often ask for input on their percolating recommendations from the presiding judges and the court executives but these two new subcommittees can serve as points for the presiding judges, court executives, and Judicial Council. It's a way to increase broad-based early input as well to make sure committees don't work at cross purposes. Finally, in light of some of the public comments we heard at our last meeting and that we will likely hear again today, I was also pleased to see that the Trial Court Presiding Judges Advisory Committee updated its publication, *Making Judicial Assignments*. The publication highlighted the importance of making appropriate assignments for these difficult, complex, and emotional family law matters and for providing appropriate resources for family courts. I also spent some time speaking with representatives from CJER, based on some of the comments we heard that they were incorporating those comments into the CJER training for judicial officers who serve in the family law assignments. Also, in the interest of providing Judicial Council members written comments that we received from the public, those written comments are now being distributed electronically directly to Judicial Council members. Written comments received will not be posted to the website. That is because this is consistent with the practice of other public entities, but Judicial Council members will have those public written comments available for them for review after each Judicial Council meeting. Thank you, Chief.

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

>> Thank you very much. Good morning, ladies and gentlemen. The Rules and Projects Committee has met twice by telephone and once in person since the Judicial Council meetings of October 27 and 28. In particular on November 5, perhaps by telephone four proposals, three of which have circulated for comment and one that makes minor revisions to civil jury instructions. I should note that as to this latter proposal regarding the civil jury instructions, the council has delegated the authority to approve those minor revisions—if they were satisfactory to RUPRO. One was referred back to the advisory committee having to do with subordinate judicial officers for further consideration. RUPRO recommends to the council approval of the other two which are items A1 and A3 on today's consent agenda. RUPRO approved the minor revisions of the civil jury instructions. On November 20, RUPRO met jointly with the Executive and Planning Committee by telephone to consider public comments on a proposal to amend the rules for several advisory committees. RUPRO recommends approval of this proposal, which is item five

on the consent agenda this morning. RUPRO also considered the uniform balance penalty schedules and two forms proposals which RUPRO recommends for approval of these proposals (three proposals) which are items A2, A4, and R on today's consent agenda. RUPRO met in person the day before yesterday, December 10, to consider rules and proposals to circulate for public comment during the winter cycle. RUPRO approved the proposal to circulate for public comment and, after circulation occurred, to the advisory committees. We expect this proposal to come before the council at the April business meeting. At the same meeting on December 10, RUPRO considered and approved the 2015 annual agendas of the eight advisory committees that it oversees. And I would like to note for those of you who have been involved in putting together or considering the annual agendas of various advisory committees, you appreciate and know all of the work that goes into that, both by the committee chair, the committee members, and particularly the committee staff. And, in that regard, we approved the annual agenda for the Advisory Committee on Civil Jury Instructions, chaired by Judge Martin Tangeman, one of our members on the council, and staffed by Mr. Bruce Greenlee; the Advisory Committee On Criminal Jury Instructions, chaired by Hon. Sandy Kriegler and staffed by Ms. Robin Seeley; the Appellate Advisory Committee, chaired by Justice Ikola and staffed by Ms. Heather Anderson; the Civil and Small Claims Advisory Committee, chaired by Judge Patricia Lucas, and staffed by Ms. Anne Ronan; the Criminal Law Advisory Committee, chaired by Justice Tricia Anne Bigelow and staffed by Mr. Arturo Castro; the Family and Juvenile Law Advisory Committee, chaired by Judge Borack and cochaired by Judge Mark Juhas, and staffed by Ms. Julie Weber and Ms. Audrey Fancy; the Probate Mental Health Advisory Committee, chaired by the Hon. John H. Sujiyama and staffed by Mr. Douglas C. Miller; and finally the Traffic Advisory Committee, chaired by Hon. Mark Burrell and staffed by Mr. Courtney Tucker. I would like to say, on behalf of RUPRO, that the meeting went very well, and the annual agendas were extremely well done, and we were very pleased to approve each and every one of them. That is my report on behalf of RUPRO, Chief.

>> Thank you. Next we'll hear from Judge James Herman from our Technology Committee.

>> Thank you very much, Chief. Since the October meeting, the Technology Committee has had two open meetings, one being telephonic and the other yesterday, an in-person meeting. In addition Vice-chair Judge De Alba participated in the Court Technology Advisory Committee meeting and I participated in the December 5 Court Technology Advisory Committee meeting. At both meetings we provided updates on the work of JCTC and the upcoming change to the rule of court as part of the recommendations from the court technology governance and strategic plan work stream. The project was approved by the council finally at the October meeting. And we also discussed the state-level data exchanges and justice partner interfaces work stream. I can't even begin to pronounce the acronym. And I'll give a little bit of detail on that a little bit later in my report. In addition, for the benefit of the new members to CTAC, I outlined the history and role of the JCTC as well as its relationship to CTAC. As chair, I participated in periodic meetings on the status of our progress and on the deficiencies identified in the judicial branch procurement information systems audit by the California State auditor, with a report back to them on December 19. Council will recall that that's the audit essentially in terms of data

security, at both the branch level and also at the number of trial courts on the same issue. I will report more in detail on that status at the January meeting. I've also participated in discussions between members of CTAC and Language Access Advisory Committee on the remote video interpreting project. At the November 10 meeting, the JCTC received updates on the Court Technology Advisory Committee, including the current and upcoming work and activities and the information technology budget. Of course, just following up, JCTC reviews the CTAC annual plan as well as any additions to that, which includes the work stream I just talked about. Yesterday morning, the JCTC held a face-to-face meeting. David Yamasaki, former member of the Judicial Council and now a member of CTAC, provided an update on the data exchanges and partner interfaces. In terms of the restructuring of the way CTAC approaches certain projects, they become a work stream project with a so-called executive sponsor—in this case, Mr. Yamasaki—to sort of oversee the project. And they bring outside assistance from subject matter experts and trial courts to make sure that we are working from the ground up on various projects. And this is the first we've used the work streams at the JCTC levels. This is the first one that fits within our new governance structure. It's a critical project because we've got 25 courts that are either in deployment or deployed for one case management vendor, and we've got three other courts on two other case management vendors as well as five courts on a fourth vendor that are all moving towards a digital court. It's critical that we get our 13 state justice partners to the table with our courts, trial courts. And the vendors, to work out standards, both administrative and technological in terms of data exchange. So this work stream approach aligns with the approved technology governance structure. Other updates were provided on the IMF budget. The Trial Court Budget Advisory Committee recommendation that was approved by the council was that the committee develop a plan to eventually eliminate subsidies to courts, the B3 courts, and the sustained justice courts posted to the tech center. I might add we have been working closely with the subcommittee of Trial Court Budget Advisory, looking at the IMF fund to make recommendations about how pressures on that fund can be reduced including the 50% of that fund that supports technology projects for the trial courts. Finally, as chair, I've met regularly with the Trial Court Budget Advisory on that particular project so that wraps up my report, Chief.

>> Thank you, Judge Herman. Next on our agenda are the liaison reports. I turn that order of agenda over to Justice Miller.

>> We have two reports today. The first is from Judge James Brandlin and Judge Joan Weber reporting on the Superior Court of San Diego. Do you have organized who's going to go first? But yes, Judge Brandlin is going first.

>> Thank you, Justice Miller. On October 20, I visited the judges of the San Diego Superior Court. I spent approximately an hour with Presiding Judge David Danielson and Assistant Presiding Judge Jeffrey Barton. I then spent approximately an hour and half with the judges of the court, including many of their executive committee members. Judge Weber was assigned by the Chief Justice to be one of the liaison judges for San Diego. This assignment took place after I already completed my court visit. After my remarks are completed, she will provide a brief

update on events which have occurred at the court since my October 20 visit as well as some pictures and a short video. Let me start this discussion with the good news first. The construction of the new 71-courtroom courthouse is well underway. The construction that was visible on the date of my visit back in October looked like a giant 65-foot deep hole. A mud slab was visible on the bottom of the hole that consisted of a thin layer of concrete to protect the excavation as a water seal is being installed, and a massive amount of reinforcing steel is placed as part of the building's foundation. An enormous quantity of concrete has been poured since my visit and more is scheduled before the structural steel begins. This 22-story project is on time and is expected to be completed by December 23, 2016, as a holiday present for their community. However, there are a few remaining issues that still need to be addressed including the lack of a tunnel directly connecting the sheriff's jail, which is approximately two blocks away. One other spot of good news is that the investment in their IT infrastructure is advancing forward. The San Diego Superior Court retained Tyler Technology, and they have invested in a new case management system. Their court is optimistic that they will win the race against time and successfully replace failing legacy systems in family, criminal, small claims, and traffic. Their court was one of the early investors in V-3, and the court is grateful that V-3 continues to provide a stable, functioning platform for civil and probate. They are hopeful that support will continue for the next three years to keep them afloat until the Tyler Odyssey system comes fully online and civil can be switched over in 2018. The only remaining good news is that despite the financial hardships, the court has not had to involuntarily separate many employees from service since layoffs in 2012. Working conditions are so intolerable that the employees who are leaving voluntarily have decreased the workforce and resulted in significant budget savings, making any additional layoffs unnecessary. Unfortunately, these three bright spots are the only good news I have to share in an otherwise very bleak report. The morale of our fellow jurists and especially their staff is unfortunately at an all-time low. To use the words of their presiding judge, they feel like they are under siege, and liken working conditions of staff to a machine running continuously at redline with no relief or regular maintenance. They are experiencing these difficulties because of the lack of new significant funding in the recent budgets. The San Diego Superior Court is a proud group. Their court is the second-largest in the state. They take pride in the fact that they have provided the judicial branch with many leaders including three members of this council, two of whom enjoy leadership positions on important internal committees and one who serves as the president of the CJA. San Diego has provided leadership and faculty to the Judicial College and statewide educational programming. Their court at one time was renowned for its programs, including their collaborative and innovative courts and a very efficient and effective civil division. Now they struggle just to get by. Their civil independent calendar departments have been reduced by a third. This has caused their law and motion time frames to go from three to four months for a hearing to six to nine months or more. Their civil caseloads have gone from 500 to 600 per judicial officer to approximately 900 to 1100. Before the cuts in staff attrition, more than 81% of their unlimited civil cases were resolved within a year. Now those cases are continued repeatedly because of lack of available motion dates. They will soon have approximately 10 off-line judges, judges working without staff because they cannot afford to hire staff. In addition, they have five judicial vacancies and two unfulfilled commissioner slots. Of the 154 authorized positions, only 137 judicial officers will have staff. In fact, before

the impact of this year's budget was fully appreciated, they recently spent more than two weeks interviewing candidates for two open commissioner positions only to have to inform the candidates that they could no longer afford to hire them. The San Diego Superior Court has now planned to centralize their traffic operations leading to some increased commutes and protests from local law enforcement. Previously, they closed all civil and small claims operations at the East and South County branches. They are now in the process of moving their small claims cases downtown from the traffic and small claims facility so that the facility can hear all traffic matters from the east and south branches along with central court traffic. They are eliminating court-funded substance abuse assessments, pretrial services, and small claims advisors. Most of the past cuts have been felt in the family and civil divisions. Civil courts still have no reporters. Family courts only have a court reporter half the time. The court is exploring the reduction of remaining court reporters including criminal to a 35-hour work week. The San Diego Superior Court has traditionally functioned with 1,600 employees but the ranks will not shrink below 1,200. At this time they don't have enough staff members to efficiently process work in all divisions. To avoid unnecessary continuances because documents are filed and sit in a pile in the clerk's office, staff has to notify counsel to bring a courtesy copy of the pleadings to court for the judge to review. The criminal judges worry about their ability to handle additional caseloads caused by AB 109 and now Prop. 47. WAFM has been particularly difficult for San Diego. 50% would be shifting funding due to their workload. The other 50% was to be accomplished through new funding by the Legislature. Unfortunately, funding to the branch has not remained static. It has shrunk dramatically. San Diego projects that the administration's proposed additional 5% funding in fiscal year 2015–2016 is grossly inadequate to make up for both the loss due to allocation of funding through WAFM and the increased costs of employee benefits. It is in effect a double hit that takes San Diego from a \$40 million ongoing operation deficit and pushes it to nearly \$50 million. They are also fearful that WAFM's disparate impacts on trial courts will lead to an us-against-them mentality within the branch. It would be unfortunate if superior courts are no longer joined together in a united front for the good of the branch as some courts benefit more from WAFM and others do not. The judges also worry about perceptions by the Legislature, the Governor, and the public regarding the manner in which money is being spent by the courts that have benefited under WAFM. San Diego judges worry about a conclusion that the judicial branch really doesn't need additional funding when courts with additional funding under WAFM are giving employees pay raises yet San Diego court employees on the other hand have not had a pay raise since 2008. One judge remarked that "San Diego is Exhibit A on the negative side of WAFM and, other than Santa Clara and Orange, has been the hardest hit by the lack of funding." They appreciated the irony of the National Association of Women Judges hosting their international conference in San Diego with the theme being "maintaining access to justice," while they are still struggling to do so. To put this in perspective, in 2008, the court's budget was approximately \$203.5 million. Today, their budget is \$163 million. They have increased employee healthcare costs, their filings are also down. Judges worry about additional funding and service reductions. One judge summarized their court as having gone from "a leading court on fiscal efficiency" to quote, "being on life support." I told them that I empathized with them and felt their pain and knew what they were going through. The Los Angeles Superior Court has recently shuttered eight courthouses, and 79 courtrooms, and laid off hundreds of employees

since the start of the Great Recession. I told them that the Judicial Council has been fully engaged in seeking additional funding and that most of the Judicial Council members have literally spent days individually lobbying our legislators for more money and in fact had received a commitment for approximately \$300 million in additional funding. But that unfortunately the Governor's office has a different vision regarding the appropriate amount of funding for the rainy day fund and other budget priorities. I told them that the Judicial Council staff is in constant contact and discussions with the Department of Finance. We will not give up and simply accept as the new norm this inadequate funding. San Diego, like other similarly situated courts, needs help and they need it fast. With regards to their concerns about WAFM methodology of funding, I told them that I was also the Judicial Council liaison to Riverside County, a severely underfunded court. Riverside judges wanted to know why they have to wait 5 years to receive a deferred and fractional restoration of funds instead of full, immediate additional funding. We need to keep in mind that WAFM was a historic agreement that involved compromises by all courts. Equitable funding—which WAFM was designed to address—was demanded by the executive and legislative branches and is one of the cornerstones of the Chief's plan for a fully funding of the courts. Need to be very careful not to disturb the positive aspects of allocating funding through WAFM. On the other hand we need to redouble our efforts to ensure that we have adequate new funding for the entire judicial branch. As long as all courts have an adequate funding base, courts that reallocate under WAFM will not begrudge additional monies going to severely underfunded courts. However, when there is inadequate funding for all of the courts and adjustments are only made internally, resulting in funding for some courts at the expense of others, we are doomed to repeat the cycle of hunger game requests for supplemental funding that we have had to painfully observe in these chambers for the last several years. We, the judicial branch, must dramatically increase our efforts with legislative and executive branches to achieve adequate new funding for the judicial branch. That concludes my report, Chief. Thank you.

>> Thanks, Judge Brandlin. Judge Weber?

>> Yes, but could we play the first slide please? Okay. Judge Brandlin talked about our administrative staff. On your left is Judge Jeff Barton, our assistant presiding judge. In the middle is our extraordinary PJ, Dave Danielson. To the right, I'm sure all of you know one of the best executive officers in the state, Mike Roddy. Here is our construction project. Judge Rubin is my next-door neighbor. And he goes gaga over this construction project. They brought the second crane out last week. And now he's over the moon. It really is coming together. We are very excited about it. Judge So tells me that 720 truckloads of cement are being brought in this weekend. We're hoping that the rain will not halt that, but things do appear to be right on track. And we are all extremely excited about that new construction. Since Judge Brandlin's visit in October, I was also assigned by the Chief Justice as a liaison to San Diego, my home court. I wanted to update the council on several things that have happened since Judge Brandlin's visit. First as you all know, Prop. 47 passed on November 4. San Diego has been particularly hard hit. From November 5 through December 8, there have been over 9,800 petitions filed by the public defender's office in San Diego Superior Court. These include both petitions for resentencing for

people currently serving sentences, and reclassification petitions filed by people who have already completed their sentences. Court administration has been told to expect approximately 2,000 petitions submitted per week for the next three years, which would total over 300,000 Prop. 47 petitions to be reviewed and resolved in San Diego County alone. Understandably, the court is scrambling to find judges and staff to handle the extra hearings generated from Prop. 47. To date, out of the 9,800 petitions filed, the court has been able to process 214 of these petitions. Second, the court invited to San Diego legislative staff and legislators to lunch at the downtown courthouse on November 17—an annual lunch that we started several years ago. Assembly Speaker Toni Atkins and the legislative aides of seven other local legislators attended the luncheon. This year’s legislative luncheons focused on the impact of the severe budget crisis on families and children. As part of the frank discussion with Speaker Atkins and the legislative aides, the court staff prepared a short video, which I am not going to be playing today for time reasons, but we will make that available on our family court operations. We feel that this kind of outreach with the Legislature is critically important in this time of budget crisis. So that concludes my supplemental liaison report, Chief. And I am happy to answer any questions.

>> Thank you. Judge Rosenberg?

>> Thank you. In my capacity as a Judicial Council liaison, I visited the Colusa Superior Court on November 26, 2014. Centrally located in the Central Valley, it is one of California’s original 1850 counties. The county population is only 21,358 and declining. Surrounding counties are Yolo, Lake, Butte, and Sutter. The historic courthouse and the courthouse annex are situated in the center of the city of Colusa, population 4,950. Do we have a slide on the Colusa visit? So there is the historic courthouse during my visit. I spent time with the presiding judge, Jeff Thompson, the Assistant Presiding Judge Elizabeth Olivera, and Court Executive Officer Kevin Harrigan. Visiting Colusa is like visiting Mayberry. This is the quintessential small town. I wandered into the middle of the street, Main Street, to take that photo of the historic courthouse facade. I didn’t have to have to worry about car traffic. I could not see a car moving in either direction. The temperature was 64 degrees, the leaves on the trees were turning fall colors. As I walked the two blocks to lunch with Judges Thompson and Olivera, we passed a number of number shops, a local movie theater, and a number of locals who know the judges by name. The judges inquired about kids and families. At the local grill we passed tables where everyone seemed to know everyone else. At one table, a defense attorney, a prosecutor, and an interpreter were having a friendly lunch. A loud klaxon started blaring during lunch. I found out that it was the summons to the firefighters at the volunteer fire department. So that was Mayberry. Colusa Superior Court is a 2-judge court. Both judges are relatively new. Here is a picture of Judge Thompson and Assistant Presiding Judge Olivera. They are in the sole courtroom in the historic courthouse. By the way, the walls have photos of every single judge in the history of Colusa Superior Court, there are only like 10 of them, and they are all up on the walls. Judge Thompson has been on the bench for six years. Judge Olivera has been on the bench for four years. Essentially as in most—all 2-judge courts—the judges handle all assignments on alternating days. Currently Judge Thompson handles most felony members. Probate, unlimited, civil, family, and traffic. Judge Olivera handles misdemeanors, juvenile delinquency, dependency,

small claims, and unlawful disclaimer. Kevin Harrigan is the CEO, also the clerk of the court and the jury commissioner. He is a young CEO, only 37. He's been in this position only since April of this year, although he's worked for the Colusa Superior Court for the past four years. The entire staff of the Colusa Superior Court is 13 1/2 and the staff includes a senior account clerk, an operations supervisor, and the rest of the staff will work as legal process clerks and courtroom clerks. Having such a small staff, everyone is cross-trained and everyone including the operations supervisor sits in as courtroom clerks when needed. According to this, the biggest single challenge faced by the court is maintaining qualified staff. If one person leaves on maternity leave, or is ill, or retires, or departs for other reasons, obviously there's a big hole to fill. According to the WAFM, Colusa should have 18 staff, so they have a 23% vacancy. The CEO also told me that the 1% reserve is very constricting for them; for Colusa, this amounts to \$23,000. Because of the WAFM adjustments, Colusa received an additional \$123,000 [Indiscernible] for which they were very appreciative. Prior to the 1% reserve stricture, Colusa had a reserve of about \$1.8 million. As a result of the annihilation of that reserve that they feel they were called quote, punished, end of quote, for being frugal and prudent in their financial management for many years. Because of fiscal constraints and financial constraints, the court has no IT staff and they have to contract out for IT services. Because of the expense of IT services, court staff try to handle as much of the IT load themselves. Mr. Harrigan told me he often crawls under the desks to see if he can fix the IT issue himself. The court has an adequate and stable case management system, and they have no current plans to go paperless. The Colusa Superior Court operates out of two buildings. Here is the other building, both still owned by the county. There is the historic courthouse which we just saw, which has been continuously operated since 1861, making it I believe, the oldest continuously operated courthouse in California. To step into that old courthouse is truly a step into another time and another century. The court shares historic courthouse offices with county offices. The annex is about a half a block from the historic courthouse. Each building houses one courtroom and here is the North Courtroom in the Courthouse Annex. Both Judge Thompson and Judge Olivera were very proud of the fact that Colusa has not reduced services or hours of service. Their small staff is doing public duty to keep the public windows open at the same level that were open prior to the Great Recession. From the perspective of the judges, the greatest problem the court faces is the lack of local counsel. There are so few attorneys in Colusa County that for example when there are conflicts in criminal cases, the court has to seek counsel in neighboring counties. The DA's office has only three prosecutors: the public defender contract employs just two defense counsel. In conclusion, I guess it's affirmation of the old adage that you cannot have a judge in a county unless you have at least two lawyers. That concludes my report.

>> Thank you, Judge Rosenberg.

>> Justice Miller. Dave De Alba from Sacramento. May I make a brief comment about Colusa?

>> Sure.

>> I was liaison to Colusa County previously. And I visited there two years ago. And the courthouse that you all are looking at was built and completed shortly before commencement of the Civil War in 1861 and is a replica of many courthouses from the South and Virginia where the design was taken from. And the two judges that are there, interestingly enough, are residents of neighboring counties. Thank you.

>> Thank you.

>> We originally only had two liaison reports scheduled. But because Judge Rubin made such a valiant effort to get here through the storm and the weather and was originally scheduled, we're going to accommodate him. He has promised to make it within his five minutes of allotted time. He will provide a report on San Bernardino.

>> While we're doing that, thank you, Chief for the opportunity to make this presentation. For those of you who are listening online, my name is David Rubin. I'm a judge in San Diego County. I'm giving this presentation in my capacity as a Judicial Council liaison to the San Bernardino Superior Court. I had the pleasure of visiting the San Bernardino court twice. On May 1, 2014, I went to see the dedication of their new courthouse. Afterwards I was given a tour of the facility. First let me make three main points. I've not rehearsed this but we'll be less than five minutes. We're going to talk about the county's size and geography, budget reductions, and the under-resourced. First the good news. The new courthouse opened on May 1, 2014. I found the building to be light, and pleasant, and efficient without being opulent or austere. On the other hand, I think people using the building will enjoy it very much, unless they are taken into custody which could take some of the luster off of it. In any event, it's a really nice piece of architecture and very functional. On July 14, 2014, I made a second visit to the court. At this time, I spent some time with court CEO, Christina Voelkers, and Presiding Judge Marsha Slough, and during my site visit I had, they could talk to me about some of their specific concerns about what's happening with their court. After lunch, Judge Slough took me over the Cajon pass to Victorville about 45 minutes north of San Bernardino's downtown to meet with judges there. And we also talked to Judge Slough and Ms. Voelkers on the telephone. Here's what I found. Let's start with the new facility that opened on May 1. First of all, it's 11 stories, this is the good news part. It's got 35 courtrooms. They only use 25 of them. That's due to budget and staff shortages. They have two mediation rooms, they have consolidated all the civil, family, and many of the criminal cases into that building—not all of them but many of them into that building. The building provides staff and the public with a safe, secure working environment, and the court is pleased with this addition to their lineup. Now, here's other good news that have: rolling out Tyler, a comprehensive case management system, is a very important development for them. And for access to justice in that county, especially given some of the historic challenges, which I'd now like to discuss with you. Let's start with the obvious. That is San Bernardino's unique size and geography. One of the things that troubles the judges and of course the PJ there, Judge Slough, is how do you provide civil and criminal justice to a community that is so far-flung? San Bernardino County is the largest county in the United States. At its widest, it is 210 miles. At its longest, 134 miles, over 20,000 square miles. It makes up

12% of California's geographic area. It is larger than Massachusetts and Vermont combined. Let's take a look at the state of California. In the lower southeast, if you were to move San Bernardino County to the Bay Area, you can see that it covers or touches all or part of 23 different counties. You can understand what a challenge that is for the judges of San Bernardino. You can imagine for us, if this county were here, having citizens from Tahoe come down to San Francisco to do business or from Yosemite to San Francisco to do business. It is a huge challenge for this court. I missed a graphic in there. There's another challenge: the San Bernardino Mountains cut the county in two. You can traverse the mountains to a 3,000-foot pass, which frequently is either rained or snowed in. People in the north part can't get to the south part and have to do business. Frequently you will have during the winter months, you're separated from your case lawyers, litigants who cannot get to where they have to conduct business: family court, juvenile court or criminal courts. In addition to the size and geographic challenges, we talked about the budget. They are suffering the same budget strangulation that the other county courts are suffering. Since 2007, there's been a 28% decrease in staffing due to budget shortages. Many court reporters were let go or laid off. The court could not rehire nine of the 15 commissioners. Shortened clerk hours and furloughs have yielded intolerably long lines and delayed justice. All these cuts have occurred in a court that is one of the most historically underfunded and under-resourced courts in California. Now in 2008, this is what San Bernardino County looked like. To the south, distribution of courthouses used to provide access to justice to the 2.1 million citizens are there. Because of the shrinking budget that we all suffered, with San Bernardino being historically under resourced, in addition there were shuttered courthouses in Redlands, Needles, Twin Peaks, and juvenile traffic programs, and truancy were shuttered as well, which also had to be discontinued in Joshua Tree and Barstow. Leaving this, for those of you who can see, this is what's left of the once-proud court system in San Bernardino. As you can see, sadly, it has restricted access to justice. It is a credit to Judge Slough and her staff that community groups, chambers of commerce, and affected areas were notified of closures before proceeding with them. While appreciated, it was no less easy. Of course the budget cuts in sheer size and court closures have over the last seven years meant disenfranchisement of a sizable number of Californians. Thousands of Californians are no longer able to participate in jury duty. What's worse, they are not expected anymore to participate in jury duty. They simply can't get to the courthouses to participate. In some distant areas, people plead guilty because it's not feasible for them to go over 200 miles to where their case is being heard—sometimes on public transportation—which requires more than four hours on a bus to get there. Still, this state of affairs undermines notions of fairness and justice. In addition to its size, geography and budget cuts and courtrooms, San Bernardino is one of the most, can you hear me, not --

>> Not a word.

>> [Laughter]

>> Rosenberg, I mean it. [Laughter]

>> No Hanukkah gift for you.

>> Coal on your menorah.

>> [Laughter]

>> Back to the sobering news here. In addition as I told you, San Bernardino has been one of the most under-resourced courts. These reductions have a huge impact on them. Judges report they have the fourth-largest workload in the state. They are only the eighth or ninth largest court in terms of judicial officers and staff. They've had to cut \$23 million out of \$110 million budget. The court is authorized to have 93 judges. It currently has 78, which is one half judicial weighted caseload need of 156 judges. San Bernardino needs over 1,500 staff to function properly. It has less than 900. San Bernardino's historic underfunding will be relieved to some extent under the new WAFM methodology. However, the pressure for staff with under-resourcing is burning out the judicial officers and support personnel. The court is desperate to provide something other than assembly line justice. Let me end this presentation by saying for all of these challenges, I found these to be very collegial and hard-working courts. That concludes my presentation. And I think, Justice Miller, that was five minutes.

>> Perfect.

>> Thank you. Before we move on to public comment, I want to say several things. I thank the Judicial Council members. This really is a working council as you can see. I made light of the binders earlier, but we know the binders really are a composite of all the 400-plus people who volunteer their expertise in service to a better policy for California statewide. And those binders are put together by Judicial Council staff, supported by staff, so that we have all the materials available to make a reasoned and deliberative decision. When I hear the liaisons report, I am profoundly struck by how hard working our courts are, how different we are, how there is Colusa that is regal in its tradition, and its relationships are warm and strong and familial. And then we talked about San Bernardino and its geographical distance but yet its unity of leadership on the bench and what I have observed in its Bar Association as well, in addition to San Diego's challenges that are symbolic in some ways of that 65-foot pit that will be rising up into something magnificent in 2016. There's a lot to be said here about how different we are, but how united all of us are in our efforts to serve the public. And our differences should be embraced. And honored and respected and every day when I think about these liaison reports, I'm proud of the work that this branch does, notwithstanding all of the reductions and difficulties it's facing and the people who make this possible. We are truly a person-made branch. So with that in mind, I turn this over to what I consider to be an innovative decision by the council. That is to open up our Judicial Council meetings to public comments. And to hear from folks about the administration of justice and how important it is for us to hear these reports so that we can continue to act responsibly and improve ourselves in the future. I turn it over to Justice Miller.

>> Thank you, Chief. As we begin our public comment period, I want to mention that we are trying something different this time. Because we had so many speakers at our last meeting for our public comment period, each speaker was only about one minute. And in reality, that really

didn't provide an appropriate time for them to express their concerns and suggestions. Our policy has always been to provide up to three minutes for a total of 30 minutes. So in order to allocate three minutes to each speaker, we will now accommodate 10 speakers in our public comment period on a first-come, first-serve basis. Again, as we have done over the time period that we have instituted public comment, we want everyone to have the opportunity to express their thoughts and opinions to the Judicial Council. So if we can't accommodate a speaker in the time allotted for general comment, the speaker has the option of providing written comments to the council which, as I indicated earlier, will be distributed electronically directly to each council member. Alternatively we can offer them speaking time on a first-come, first serve basis during the comment period at our next regularly scheduled meeting. So at this time we'll begin public comment. Please to those who speak, remember this deals with general administration of justice. It's not within our purview to overview individual cases or decisions of individual judges. We ask you to honor that and limit your discussions to the general discussion of administration of justice. Our first speaker for a period of three minutes—I'll remind you at 30 seconds that you have 30 seconds left—is Edwin Thomas Snell. And then if we could have the next person, Tonya Nemechek, Nancy, if you could have them wait at the gate? Please remember you have 30 minutes. Thank you.

>> Three minutes. I'm sorry.

>> [Laughter]

>> I haven't seen you, Chief Justice, since I spoke at your confirmation hearing. You are looking quite well. But I warned the public and the world of your kryptonian jurisprudence and your misfit morally judicial ideas. Weathering the storm was a small task getting here. It's weathering the storm brewing inside here that brings me here today. My name is E.T. Snell. And I am from San Bernardino County. My website is www.ET_Snell.com. It has become so very obvious to me that the human inhumanity caused by so many with the greed and cover-ups, have caused so much pain and suffering to the humanity of others. Chief Justice, I spoke at about 1:05 at your confirmation here and I forewarned the world of your humanitarian shortcomings. If I took all of the Bibles, all of the law books, all of the dictionaries, and tried to describe this morally unfit body, I could not do it. But I stand here before you today as a representative of children in foster care. Foster care is an abomination to God and humanity. Giving two-year-old children psychotropic medication, oh, my God. Where are we at? Until the taxpayers wake up to this kid for cash scam, billions of dollars wasted, will things change? They are taking children under junk science, no federal mandate of drug screening, they are having trials if you are lucky. Most of those people don't get trials. They are extorted out of their children. The statistics will show that only 10% of the kids taken are physically abused. Only 7% are sexually abused. That 83%, millions have been ripped apart, grand juries show that 70% of inmates come from foster care. Children in foster care are 10 times more likely to be abused. It's a kids-for-cash scam by billions of dollars. To show how morally unfit this body is. SPX section five shows, I've got these recalls of the judiciary, the Supreme Court. And I offer them to you today. But though ...

>> Just set them on the chair.

>> I would like the stockings back in the same spirit of the way you give children in foster care. God bless you all.

>> Thank you. Tonya Nemecek on general judicial administration. If we could have Barbara Coffman please come forward and stand over by Nancy? Thank you, Tanya.

>> You may begin.

>> Thank you for having me here today. I'm here today to speak on behalf of all the parents that don't have the tenacity or courage to be here themselves—or the means. This is not, there's not a member in this room that doesn't know about the family court crisis going on, children are dying and being forced to live with abusive parents. We've had the CJD and many other nonprofits that have been combating the family court system for decades, 25-plus years or more. This has been an ongoing issue. It is not new. I appreciate that the Judicial Council has had members in the recent months going out to different superior courts. And talking with the presiding judges to listen to them whine about their financial woes and their issues in the family court system. However, one of the things that's not being talked about is the resources used towards cases where corruption into legal procedures have taken place. And if we really want to start looking at the financial whines and cries of the superior courts, we should start looking about how they are actually using their resources. Case studies and data have proven that judges have been allowed to hold closed-door sessions and have been, due to the lack of reporting, publicly and litigants being able to record their own procedures. These illegal procedures between judges and attorneys have been going on for a long time. We know these illegal procedures have cost at a lot of children their lives. And we want to be able to right some of this judgment. You need, it has been brought to my attention over many years, that in order to right some of these cases that have been wronged, you have to get an attorney that has the right (and I put in quotes) the right relationship with judges. Because there are benefits that the judges get outside of the courtroom that allow these procedures to go on. So we need to be able to bring reporters into the courtrooms. And we need to have more stringent auditing that combats some of the corruption. And there's many ways to go about doing this. And that's just one of them. But this has to stop. Thank you.

>> We'll next hear from Barbara Coffman. Is Melinda Dier here? If not, if we could have Ruth Hall, next? And stand by, Nancy. Thank you. You may begin.

>> Thank you. Good morning my name is Barbara Coffman. I was here last month as well. While I make my introductory comments and my three minutes, I'd like to refer you to the binder, item T, and the last page of exhibit T. First I would like to request a public hearing dedicated to hearing from the public so we don't have to keep coming here for 30 minutes and do it all at once. People from all of the state could come here and speak at once. Second, please be advised that the Judicial Council Futures Commission survey was prematurely closed prior to its December 5 deadline. I believe it should be reopened for those who tried to but could not

complete it. Third, I've prepared a detailed written comment dated December 10. If you have it, please refer to it because it is relevant to what the last presentation about San Bernardino County was about. It is in regard to the Judicial Council's proposed legislative priorities and its stated need for a draft 10 additional judgeships. We've heard about courts being closed, judges not having staff and yet one of the legislative priorities, one of the top priorities is funding new judgeships. It doesn't make any sense. In addition, if you look at the last appendix, A of item T, there are 61 surplus judicial positions in 23 counties. Santa Clara has 19.4 surplus judicial positions; Alameda, 14.9; Contra Costa 3.5. If those three counties combined have 11 vacancies, why isn't there a reallocation of the vacancies to the needy counties like San Bernardino? San Bernardino has five vacancies right now. That's different. I used the November 30 data from the Judicial Council to get that number. I heard there were more today. Why isn't the press and this council pressuring the Governor to fill those vacant positions instead of asking for funding for 10 more judicial positions? It doesn't make any sense. If the Judicial Council wants to have credibility with the Legislature, it needs to maximize resources right now. Santa Clara and Alameda have 35 surplus judgeships. They should be reallocated. That entire system needs to be revamped. And then there should be a push for court reporters, official court records, things that will serve the public. Thank you. Please read the comments. It has all of the backup documents. And I think it's a disservice to those who can't attend to not have those posted online.

>> Thank you. Next we'll hear from Ruth Hall. Thank you.

>> I'm sorry. If we could have Kathleen Russell come forward? I'm sorry. I will start your three minutes now. I'm sorry.

>> I wish to thank our honorable Chief Justice, whom I have a great deal of respect for, and other members of the council too, for allowing me to speak. I grew up trusting and believing in the judicial system. Recent observations that I and other court observers have made have been rather shocking however. And I thought I should bring these to your attention. The following is a short list of observations. Judges punishing, threatening and gagging women, children and mandated reporters in retaliation for the reporting of sexual child abuse. California judges turning over children from California and other states to verified, documented child abusers and into the international sex trade of other countries. California judges are giving custody of children, including children from other states, to nonrelated stalkers and sex traffickers without any paternity trial and without any legal proof of paternity. Judges authorizing the creation of adoption papers without any notice to real parents and no notice to the adoption services bureau, California's Department of Social Services in Sacramento. Protected parents are being imprisoned on bogus charges without requisite constitutional procedures, protections, or rights, and/or detained for months in solitary confinement without any hearings or charges at all. Court-appointed and other experts are being threatened for verifying sexual child abuse. Judges are removing evidence of abuse from the record and adding misstatements, disparaging protected parents. Judges are routinely and systematically ruling out of order motions to recuse those very judges for biasing conflicts of interest. Please conduct your own investigation into this and you'll find that this is going on. I'd like to encourage you to install video cameras in every superior

court, courtroom, and judicial chamber, to protect the fairness and integrity of the judicial system. Children need to be allowed to speak. They want to speak, to tell about what has happened to them. Please consider that. And also please look into the financial ties between minors' counsels and abusers. And those ties need to be monitored because quite often, the minors' counsels are acting in the interest of the abusers and not of the children. I was going to speak on something else but I don't have time. Thank you very much.

>> We'll now hear from Kathleen Russell. If I could have Diane Hunter come forward too and stand with Nancy?

>> Good morning, Chief Justice, members of the council. It's Kathleen Russell with the Center for Judicial Excellence. We really don't want to be here at all of your meetings for 30 minutes reiterating what we shared last time, but I do appreciate that we have three minutes instead of one minute this time. The judicial branch in California is truly in crisis. And I do want to reiterate our request for a one to the two-day public hearing so that we can have enough time for you all to properly hear what is happening on the ground in the court crisis of which we are hearing on the front lines. Just this past Monday, 9-year-old Eric and 5-year-old Alina Edwards made national headlines because of murder-suicide that was triggered by a custody situation and litigation here in Southern California in Lancaster. The details are still emerging about this case, but it seems to fit the pattern of our research which was recently written up in USA Today, that more than 350 children across the country—that's a minimum number that we know of that we've tracked—are being killed in the context of custody and divorce proceedings. The research is voluminous and clear. Children who are exposed to domestic violence suffered long-term problems if they survive. And yet they are routinely being given to domestic violence perpetrators in California family courts. The courts are failing our children. Supervised visits, which I see is on your consent calendar, the access to visitation funding, they are being turned on their head. And safe, protective parents are being placed on supervised visits while perpetrators of child sexual abuse and domestic violence are routinely getting custody of their children. This is not just a family court crisis either. Our organization is getting increasing reports from victims of probate court who report being fleeced by attorneys and other court professionals. And they watch as their family's entire life savings are being bled dry before their eyes. I understand you are the largest judiciary in the world. And I do feel for the incredible task that that is. And it can't be easy and I'm sure it's tough to manage. But we met yesterday, while many were sitting home weathering the storm, with the Governor's Office. And it was suggested that we meet with Cory Jaspersen about our 2015 legislative priorities. And we look forward to meeting with him and finding common ground. I do believe the court reporter issue is one that we can all agree on. There are others, like judicial performance evaluations.

>> Time is up.

>> We've requested that since 2007. We may not agree on it but we hope we can find some measure of accountability for the courts. Thanks.

>> Thank you. Diane Hunter? Is Paulette Morris here? If not, could we have Kelsey McAllister come forward? And you may begin.

>> Good morning ladies and gentlemen. My name is Diane Hunter, registered nurse of 15 years. I'm a college instructor and a litigant. And I'm a member of the public. I've interviewed over 500 women in the last year. I'm speaking here for all of them. Imagine for a minute that you all went into a hospital and every one of your doctors and nurses had 12 hours of education on all of your conditions. And all of your doctors and nurses heard your complaints with any other system. Suppose you had bleeding from the rectum and cancer, and they did not believe you? How would you feel and how would a member of your family feel if 70% to 80% of you had died because of medical errors? So this is going on in our justice system. The research has shown according to ACE that there have been adverse childhood experiences contributing to a lot of health and societal problems and cost us millions if not billions of dollars. And you complain about your lack of funding? Well, you're costing the public due to your failure a lot more money. Here comes the anatomy of child abuse and DV case. First, you have a perpetrator and a victim. And they have children together. The perpetrator is usually one that asks for custody evaluations to look for psychological illness in the mother. Please let me explain to you something if you don't know this already. Domestic violence is not a mental illness. Domestic violence is a pattern of coercive control. These perpetrators use the system, your system that we are paying for, to deny access to the children to the mother, usually it's the mother. So you're enabling these people and using our public money to do so. And a lot of these children have suffered because of that. And it's costing us a lot of money. What I'm suggesting to you is we have cameras in the courtroom and that you educate your custody evaluators, minors' counsel, and judges on domestic violence to prevent this from happening. Thank you very much.

>> Thank you. Next we'll hear from Kelsey McAllister. And, sorry if I pronounce this wrong, Ms. Einhorst Storm?

>> Good morning, ladies and gentlemen. My name is Kelsey McAllister of Marin County. The family law courts are endangering the lives of children, families, and communities. A handful of predatory lawyers, judges, and auxiliary services providers have hijacked our court system and have run it off the road. They are maximizing the financial gains by fleecing families and creating protracted litigation to exploit the amount of federal and state funding funneling through their courts and into their pockets. The result has been a dramatic increase in child custody related homicides in the state of California alone. A story of a family law-related homicide shows up online every six weeks. A dramatic increase in the number of years that families are kept in litigation, the average is now 10 years. A dramatic increase in the cost of divorce and child custody arrangements for families, families are being left homeless, penniless, possessionless and at least one parent still marginalized that they become childless. The most dramatic examples of these are cases that involve domestic violence and child abuse. While 70% of divorce cases settle outside of court, nearly all contested cases in the family law court system involve child abuse and domestic violence. Judges deny and ignore evidence produced by police departments, CPS, medical professionals, therapeutic professionals, educational professionals,

and then deliver children into what all five of these entities are claiming to be unsafe environments with absolutely no oversight. The outcomes for these cases are consistent throughout the state of California no matter what type of the abuse, no matter how irrefutable the evidence, no matter what court, what county in the state of California, when a child reports abuse, when a parent reports abuse, family law courts then give the identified abuser full or partial custody of these children the child is removed from. Everyone who identified the abuse, the parents, grandparents, extended family members, siblings, therapists, doctors, teachers, anyone who stands up to protect that child is removed from the child's life immediately. The abuser is given full range to sequester that child from any avenue of help, and the results have been that these children are dying in the custody of these abusers. We are making the California Judicial Council members aware of the corruption currently taking place. History will remember this committee as those who give a voice to Californians or those who helped cover up the abuses of California's children and families. The public deserves a public hearing on these matters immediately.

>> Thank you.

>> Einhorst Storm. And then Sherry Safapu?

>> As court watchers, we have witnessed something confounding and horrible, the deliberate suppression of evidence of severe neglect, battery, and sexual abuse of children. In spite of overwhelming evidence submitted to the courts by mandated reporters and forensic investigators, experts in child abuse, including forensic interviews of children by law enforcement, medical records of board-certified doctors and therapists, all are suppressed and not allowed on the record by superior court judges against the grave warnings and pleadings of proactive parents. Court appointed experts who support children's disclosures of abuse are willing to give exculpatory evidence to the court, and they are routinely ignored and prevented from placing their findings on the record. Judges leave experts sitting all day in the hallways of the courthouse and deny them entry to the witness stand to protect children. As the body count of small children rises in California, there is no entity that will hold these judges accountable for the harm they do to the children of this state. We are told that you are it. Thank you very much.

>> Thank you.

>> Next we'll hear from Sherry?

>> Sherry Safapu.

>> My name is Stephen Bardo. Sherry is yielding her time to me.

>> Thank you. You may begin.

>> I am a staff consultant for the Center for Judicial Excellence. I consult with them in areas of public policy, civic engagement, and community outreach as well as a broad range of other things. So Madam Chief Justice, members of the council, thank you for the opportunity to address you today. I'd like to speak, I'd like to say a number of people here have been asking for public hearing and I certainly would join them in doing that. What I would like to talk about today is your public participation processes. At your April 2014 meeting, Chief Justice, you proudly proclaimed that the Judicial Council would now be implementing appropriate enhancements to your existing public comment procedures that were put in place to quote, "reflect the council's belief in the importance of public comment and enriching all of our discussions in our understanding of the diversity of opinions around an issue that comes before that body." Now, as somebody who spent their entire professional career in working in civic engagement and increasing public participation for nonprofit organizations and government agencies, that was absolutely music to my ears and I applaud you for making that commitment. However in recent meetings of this body, it seems that the actions of the actual procedure of public comment fell short of the spirit of your comments, Chief Justice. I say that because at the October 27–28 meeting, many of the people who signed up to present public comment were denied opportunity to do so. Numerous people, some self-represented litigants who came to talk on specifically agenda items were prevented from doing so on day two despite Justice Miller saying on day one that they expressly have the ability to do that. But they were shut out and not given that opportunity. When signing up to address the council at this meeting I was told that I would not be able to present despite e-mailing my request to speak one business day after the agenda was posted. Quite frankly, it appears that the actions of public procedure in the last few meetings are in stark contrast to the comments made at the April meeting when unveiling this process. But I am not here to point fingers, throw your words back at you, or any of that. I am here again, like Kathleen said, we understand how important it is and how difficult a job it is to administer the largest judiciary in the world. However, I'm here to say that as somebody who specializes in working with government agencies and nonprofits to improve their public participation processes, I would love to collaborate with you to help strengthen that process. I would do it free of charge because this is something I truly believe in and quite frankly I believe that if you do allow for more than 10 people for just a more robust and diverse discussion, a significant amount of your criticisms will go away simply by virtue of allowing people to be heard, particularly those criticisms that the court doesn't want to hear from court users. So I implore you, continue with this commitment to public participation. I would love to collaborate with you. At the Center for Judicial Excellence, we would love to collaborate with you. And I feel you for all the challenges of administering the largest court in the world. Thank you very much for allowing me to speak.

>> Our last is Ronald Pierce. Is Ronald Pierce here? Three minutes please.

>> Good afternoon. Thank you for increasing it to three minutes. I appreciate that. As I'm sitting here listening today to the comments behind me of the mothers talking about how they are not getting enough protection for their children, it's interesting for me because I've been accused of domestic violence. I'm on the other side of the coin. For a while there, I was upset at places that

appear to favor mothers or fathers but I've met in my trials and tribulations, many mothers who I flat-out know they're right. They report legitimate abuse of their children and they immediately are accused of causing trouble. They immediately lose custody and then what's harder for them after that is after that happens, nothing they say will ever be heard. It's a sentence. On the other side of things, you have—this is where I feel for the judges. Because the judges are in the room and they've got a mom that is claiming all kinds of abuse, they've got a father that says she's lying, so they are going to err on the side of caution and try to get some type of evaluation to find out what's really going on. That part of the process has been taken over. What we have are men like myself who have been acknowledged to have not committed domestic violence and yet as I stand here today I still have a domestic violence restraining order against me. My parental rights terminated, going on seven years now: divorce case not finished, still married, tons of marriage fraud. And I have to sit behind a restraining order and listen to my 13-year-old daughter talk about how the new guy wakes her up by spooning her and blowing on her neck and there is nothing I can do about it. Except tell her try talking to the school. And she does. And they don't do anything about it. There is a real human crisis going on in the court system. I have a UN complaint for torture against the California court system from back in 2009 right next to Richard Fein. I testified in front of—gave comment in front of—the Elkins Family Law Taskforce. It was immediately treated like dirt by that task force. I was not taken serious at all. I did read the recommendations in detail and they are good recommendations. Treating people as second-class citizens in the courtroom has to stop. But before that, there has to be a real hard look at what's going on in the courtroom because between the financial interests of the players involved, especially where it goes to the corporations that evaluate these kinds of things and the judges are not following the law in the courtroom. They are ignoring it. So there needs to be another task force at least to look into this stuff. Thank you.

>> Thank you.

>> Chief that includes public comment for today. Thank you to all the speakers.

>> Thank you, Justice Miller. Next on our agenda is the consent agenda. As already mentioned by Justice Hull, there are 22 items. They range in various topics from civil jury instructions, collaborative justice reports, to reports mandated by the Legislature, and also Judicial Council-sponsored legislation. Again, I want to emphasize and take this opportunity to thank all the Judicial Council advisory committees. This is work that percolates up to council. It is created by committees who have issues and work through proposals that are publicly vetted before they come here. This is enormous work by dedicated volunteers in expert areas. That's how material comes to the council. So for that matter, we appreciate all who worked on these reports because they accomplished so much. Move these consent agenda items A1 through A5 through letter R. All in favor on this consent agenda, please say aye.

>> Aye.

>> Any opposed? All consent agenda items pass. We are a little bit ahead of time on our schedule, but we're going to take our 15 minute break at this time and reconvene at 10:45. Stand in recess.

>> [Event is in recess and will resume at 10:45.]

>> Action item for judicial branch planning, proposal to readopt the strategic plan for California's judicial branch for fiscal years 2006 through 2012. And the presenters are Justice Hull, Miller, So, and Judge Rubin, and Judge Herman.

>> They graciously volunteered me to take the lead. So I will take the lead on this particular item. We are requesting that the council readopt the strategic plan for California's judicial branch from the years 2006 through 2012 and extend it to the year 2016 until another strategic plan can be developed following the work and conclusions of the Chief Justice's commission on the future of California's court system. So just to review for a moment the goals that were set in the strategic plan, there were six of them from the 2006–2012 strategic plan. One, access, fairness, and diversity; two, independence and accountability; three, modernization of management and administration; four, quality of justice and service to the public; five, education for branchwide professional excellence; six, branchwide infrastructure for service excellence; and, we would like to amend that strategic plan and add a seventh goal which is “adequate, stable, and predictable funding for a fully functioning branch.” In some sense, we recognize that adequate, stable, and predictable funding really is a part of each of the above six goals—but we strongly believe this based on the significant reductions over the last number of years. The information that we have heard today and over the last number of years of the impact on the trial courts with regards to the budget reductions is that we need to add in this interim period an additional broad goal with regards to funding our court, that we should continue our advocacy and access to justice, that we should continue our advocacy for an adequate funding base and for comprehensive solutions and alternative funding mechanisms, and revenue generation strategies. And that again, that should be part of our strategic plan in the interim before we received the report from the future of the court's commission. I just wanted to say a little bit about—it's in your materials. Most of you are probably very familiar with the 2006–2012 strategic plan, but it was based on a survey that was conducted, probably all of you have it sitting in your chambers. It was in 2005, entitled *Trust and Confidence in the California Courts Phase Two: Public Court Users and Judicial Branch Members Talk About the California Courts*. You probably read it. You may have been involved in its creation. It's something that I have used over the years in speeches to community groups about the trust and confidence in the courts and how it's a necessity, and how it relates to independence. In that process, there were nearly 3,200 individuals who were interviewed or participated. It included judges, court staff, community leaders, members of the bar, and other justice partners. So our recommendation is that we need to continue to have a strategic plan; ours expired in 2012. And in this time period, we've struggled because of the decrease in the funding that has occurred for the branch. But the court system has continued. Our activities have continued. And we need to have an appropriate plan that guides us during these next two-year periods both with regards to the goals and the funding that is necessary to encompass those. In

some sense, over these last two years, our strategic plan has been based upon the reductions and how we have dealt with that, and the implementation of the directives from the strategic evaluation committee. In essence, that has been our strategic de facto plan. However, now with the recent appointment of the Commission on the Future of the Courts, California court systems have a roadmap over the next decade and beyond that will have impact. We now believe that it is necessary to have a bridge between the strategic plan from 2006 through 2012 until they accomplish in their in-depth work and report back to us with regards to the future of the courts. As we looked at it there, we thought there were a number of alternatives. One would adopt the 2006–2012 strategic plan adding the budgetary aspects, but we couldn't just let it lapse without there being any plan and that's not an effective way to run an organization. Or we could attempt to develop a current strategic plan. And we give that a great deal of thought. We felt that again in this time of severe budget restrictions, it would be based in essence on our budgetary needs of this particular time period. It would not include all of the work that would be done by the futures commission in developing recommendations with regards to the future of the court. We felt the best option would be to adopt those goals and strategic plans which have served us well over the last six years from 2006–2012, at a new aspect with regards to the budget, extend it to 2016 and then, at that time, I can have a full force mechanism to develop a strategic plan utilizing the commission's recommendations and then also using technology to make sure that we interface with all of our partners, judges, staff, and the public in whatever way we can so we can create an effective strategic plan to take us into the next six years after 2016. Our recommendation is to adopt the six goals from the 2006–2012 strategic plan, adding an additional seventh goal with regards to adequate, stable, and predictive funding for a fully functioning branch. That's our recommendation.

>> Thank you, Justice Miller. Any questions, comments, Mary Beth Todd?

>> I fully support the recommendation to continue the strategic plan that's currently in place, and I look forward to the commission's report and what they come up with as we work to develop a strategic plan going into the future. And perhaps I'm going to be a little technical here. The additional goal, I had a little trouble when I first read it because the goal appears to be a means to an end. And the end, goals one through six, is stable funding as a means to achieve those goals. I even think within those goals, objectives that include adequate and stable funding. It just seems a little out of place to have it as its own separate goal given that our goal should map to our core values and our mission. And honestly our mission shouldn't be adequate and stable funding. Our funding is to provide access to funding, and funding is essential in achieving our mission and maintaining our core values. I just worry that in the last several years, our fight for adequate and stable funding has kind of taken first place. The appearance is it's behind what our core mission is, which is access to justice. I'm concerned that we give it too much prominence here and that we need to stay firm with what our vision is, and what our values are, and that we keep this as an objective to each of those other six goals that is an objective, but not a goal in and of itself, not for our body. In some organizations where fundraising is possibly one of your main activities, it's appropriate. But I just wanted to make that comment.

>> Thank you.

>> If there are no further comments or suggestions, with approval.

>> Thank you, Judge So moves approval.

>> Second by Judge Nadler. And Judge Herman. Any further discussion? All in favor of adopting A and B in your materials as described? Please say aye.

>> Aye.

>> Any opposed? The adoption of those recommendations passes. Thank you.

>> Next is item T which is also an action item: judicial workload assessment, the 2014 update of the judicial needs assessment, and a proposed revision to the methodology that we used to prioritize new judgeships, and we welcome Judge Lorna Alksne and Ms. Leah Rose-Goodwin. Nice to see you again.

>> Nice to see all of you. We even made it in the rain. All right. The first one we're going to talk about, I am the chair of the Workload Advisory Committee, we call it WAC. It's a new name so I wanted to give you guys the acronym for that. We are charged with making recommendations to you all, or to present options for you all to think about in the way that we calculate and analyze our needs. You should all know that the reason why I went into law is because I'm terrible with numbers. That's why I'm the chair of this group. And I have Leah here to help us with the numbers, and I'm here to give you the big picture from a judicial perspective, and she will answer any detailed questions about statistics, and prioritization, and ranking. The first recommendation we're asking you to approve today is the judicial need report we would have to give to the Legislature on even-numbered years. And consistent with previous reports, it shows the branch needs more judgeships. There's 35 courts that need judges. Specifically 270 judges are needed. I want to take a moment to make sure you guys understand that it's not that we need 270 appointments because these are not calculated in whole numbers. So 270, the workload needs 270 more people doing the work, but in different counties there's a fractional interest and that becomes important in my presentation in a minute on the other presentation. So 270 based on the statistics and the way we calculate, it is what the state of California needs in judgeships. But it's actually 250 appointments. So I want to make sure everybody understood that. How do we calculate this? For those of you that our new council members or even for me I have to keep reminding myself how we calculate this and it's very detailed and done by Leah and her team. We come up with a caseweight and the caseweight estimates what a judge does from the time they did the initial filing through disposition and any postdisposition activities. We use separate caseweights for different types of cases. And we calculate using 15 courts in 2010 asking judges to essentially do a time study and tell us what they were doing all day long. We used what they were doing to calculate and get the caseweights. Then we multiplied the caseweights by a three-year average of filings, divide that by the amount of the minutes the judge used and come up

with the amount of time it takes for a judge to process a felony. So everyone gets that's how we do it. I don't do it. That's how Leah and her team that do it. So consistent with that, our needs that we've calculated in your report, 269 plus, rounded up to 270, and that's down. Years prior, it was in the three hundreds, 350. So we believe that's because of the decline in filings. Nevertheless, even though we have less need statewide, we still have a great need particularly in the Inland Empire. What we're asking today is for you all to approve this recommendation that the need for the state of California is 269 judges. If you have questions about how we got there or any discrepancies you all see in the report, we'd be happy to answer it.

>> Justice Baxter? But just for my own information, is the calculation similar to the calculations made by the National Center for State Courts or do they use a different approach?

>> It's the same approach. The workload study was done in partnership with the National Center for State Courts, and it uses the methodology that they have developed.

>> Thank you. Judge McCabe, Judge Hull, and then Judge Rosenberg.

>> First some questions. Number one, why did the committee decide at this time, after approximately 13 years, the use of methodology to alter the equation now?

>> Judge, we have presented a second recommendation. Can we go through ...

>> Just the first?

>> Okay.

>> We'll take a pause for a minute for questions on the first part.

>> My question will be first for the second part.

>> We didn't change the methodology for this.

>> The comment I have is I have no problem with the first recommendation and the workload analysis. I'll note that I've worked with Leah a number of times, particularly on the WAFM. And I have all the confidence in the world that those calculations were true and correct.

>> Thank you. Justice Hull, then Judge Rosenberg.

>> Turns out my question is second on the first proposal. One thing that you said that caught my ear on the methodology was some type of time study where judges were observed, or self-reporting, or how they spend their day?

>> Self-reporting and then they went to the National Center for State Courts so it was anonymous.

>> So in effect they kept timesheets? But essentially it was a time study.

>> I bet you those who had been in private practice really loved that.

>> I was on the committee back then. It wasn't that controversial. Paperwork, people were willing to do it. We'll be asking courts in the future to be doing it again.

>> Two quick things. First of all, in terms of terminology, we're talking about judicial officers and we're talking about full-time equivalent essentially. Okay? Secondly, the question is going to inevitably come up—I'm sure it already has—how you intend to address it. In terms of evaluating the judicial needs, court by court, the evaluation obviously has come up with 269 full-time equivalents needed, but it also has seen some courts that they assess as over. So how are you going to address that?

>> Me? Our little committee? I don't think we're going to touch that one.

>> Someone is going to have to deal with that issue because it's going to come up through the other branches for sure.

>> The chart shows which ones the study comes up with that have over what they need to.

>> I think we're ready to move to recommendation number two. I'll answer your question first. Why did we do this? This was something, that issue was raised by the smaller member courts on our committee. That wanted (on the same page), you prioritize judgeships if and when they are even given to the courts from the Legislature and the smaller member courts said, wait a second, we need to have a judge be assigned to our courtroom. We want to get on that list but we are at .8 or .9. So what we decided to do was to look at it and how would it affect the rest of the branch if in fact we lowered the threshold so that someone who had a .8 or .9 could receive a judge. The way I think about it is I'm in court every day, all day, working really hard to do cases. If you have to tell me that all the work that I have to do four and half days a week wouldn't get done if you were a two-judge court because there's certainly wouldn't be someone there to do it. In small courts, it makes a big difference compared to larger courts that can absorb it and make us all work harder. That was the reason why the member courts brought it to us. And that's what that statistics show. Since you guys are all pretty knowledgeable, we'll go right to the PowerPoint. You can see what happened. So, on the previous list, it shows that—all the courts that need judges—that was the 34 courts. It shows that you can't really read that—269, we already talked about that. What's different—if we lowered the threshold from full-time equivalent or anything over one—is Del Norte, Lassen, and El Dorado, who are .9 would be on the list to receive a judgeship in the first, rather than having to wait until they got so much work that they were over one. Okay? And we thought you should know that once you get this list, then

what do you do with it? Leah and her team, they do a priority ranking table. This is just the first priority ranking table. If we've got 10 judges, you can see that San Bernardino is on there three times. It doesn't just go because San Bernardino has 57 judges; they don't take all of them. It gets prioritized and ranked based on a very complicated mathematical formula that I cannot explain but Leah could. So there's a rank that's done and then the 10 new judges will be allocated pursuant to their relative need. So if you go to the next slide you can see that based on relative need, in the first 50, Lassen would certainly be entitled to receive a judgeship but the other two courts that are on, Del Norte and El Dorado, would not because their relative need is lower than the other courts that are on that first 50. And so if you go to the next slide, you can see that Lassen and Del Norte in the second set through the third, we've had our first 50, talking about the second 50. This would be the third 50, Lassen and Del Norte. Sorry, Del Norte and El Dorado would suddenly come up. And the critical point for anyone to understand is that no one is losing a judgeship. I know that was something people were saying. They are not losing the judgeship. It is just being pushed off based on the court's relative need. So that was the reason I gave when smaller courts asked the member group to look at it. And the result is that some courts would be receiving a judgeship if and when they're ever given at a later time.

>> Thank you. Judge McCabe, does that answer your question?

>> It does although I have a comment period? All right.

>> Thank you. First, I do want to thank WAC for their work. One of my court's judges is a member of that. And I appreciate the work that is done and it is very tedious. It's extensive and you have to love numbers and crunching them, so my many thanks to you. Number two, I note that my home court of Merced is unaffected by the proposed change, so therefore I wrote that out. Since I don't have a dog in this fight, three, I note that I vacillated on this issue. And I think what my voice is—it may be an alternate voice. My initial reaction was I thought that was great coming from a court that was small, particularly when I started. We were in a small category. Because of changes, SB 56 and conversion of commissionerships were now in the cluster two or the median range, small median, so I get and understand the importance and impact that additional resources—particularly in the form of a judge and supporting staff that goes with every judge funding—has on a court. I thought about this and I thought it appropriate that Judge Brandlin used many terms that were in the medical field. We've heard that in a couple discussions that we are under siege, et cetera. I think of this council as a MASH unit. We're constantly triaging, evaluating, and prioritizing and then giving direction to provide resources for care. So I think it's apt in this particular instance. As I look at this issue, recommendation number two is troubling to me now. Not initially but now. And I have no problem with the calculations. I think it's a policy issue. In 2001, the methodology was developed. I recall it was about 2005, NCSC did a survey with about 355 judges were needed then. The latest update is 269.8 are needed now. However, the sage approach was to only go after the most critical 150 needs and spread those out over a three-year period. And I believe Chief Justice Ron George in the council pursued that strategy. And we're successful for the first of the three legs. That was approved in 2007 yet funding continues to not be appropriated for that purpose. Thirteen years of

using the same methodology. There are a couple concerns that we want to think about. One, I think the Legislature and the Governor might have a problem with expending monies for a full-time position and staff. I think it's about \$1 million per position, the judge and support staff, clerks, although probably carving out security may be a little less now, for a position that is not full time. Number two, we've in essence had a line. People have been standing in line since 2007 because they have demonstrated full-time needs for judges. The formula's now changed to allow somebody that doesn't have a full-time need to get in line. And that notes that originally out of 355, it only took 155. So there are 205 that didn't even get to stand in line. The numbers have been changed now to the 269.8. There's another 119 full-time positions statewide that aren't even in line, based on our current strategy, out in the distant future. So we are in essence changing the formula in order to achieve a desired result. I don't mean to be divisive. My instinct initially was for my small-to-medium court perspective. But I understand what my position is. The council is here to issue policy on a statewide perspective and basis. And when I gave that careful consideration, it led me to the conclusion that altered my initial instinct. Because the initial instinct was what I looked with and of course that would benefit the smaller courts. And I don't discount the need and the impact. I'm troubled also by the statistics. Our brethren in San Bernardino and Riverside County have enormous needs. If you look at the statistics, in essence, San Bernardino is doing 100% of the work with 42% of the judicial resources. Phenomenal. Riverside: 100% of the work with 48% of the judicial resources. I have a problem as a doctor giving medicine to somebody that has a less than full-time need when I have patients that are in critical need. Inland Empire has had massive growth and I recognize that. I'm not from the Inland Empire. I don't have any vested interests with them. I don't even have any relatives there except Ms. Slough. So it troubles me in that respect as well. Three. I note that the issue previously was going to appear on this agenda. It arrived at presiding judges after we had had our last meeting. So we haven't had a meeting on this. Our next meeting isn't until the end of January. So e-mail was sent out. If I recall correctly, three presiding judges responded. Quite frankly, I don't think they understood the issue. No offense to those listening. If you're looking at this, it doesn't dawn on you unless you are a number crunching wonk that loves this kind of stuff, I got my hand raised, versus those that don't. That's not meant to be insulting. It's just a fact of life. And I think this is the type of issue that should be probably vetted a little more, and probably wasn't apparent to me until probably today. I've sat here and thought about this for months. I contacted Leah. I asked her to provide some of the charts here so that you could comparatively see under a full-time versus the .08 methodology. And it was helpful to do a comparison so you could see the impact of who would be affected. And it's minimal. We're talking about San Bernardino losing one and getting one. I'm not anti-Lassen and I see that they have an extraordinary need. However, we have some other courts here that have full-time needs. And I think from a statewide basis, I would be remiss if I did not urge this council to accept number one but number two to table it until it does go back to CEAC and TCPJAC, and they have an opportunity to discuss at our next meeting. Final comment is—maybe it is of urgency. But I think it's something that can be modified by this body at a later time, unless I'm wrong. On even years, there's reporting and I don't know. Are we locked in for those even years? Or is the council able to alter its recommendations to the Legislature and the Governor? That's not a rhetorical question. I'll allow them to answer that after the next speaker. So thank you very much

for allowing me to go on. I'll leave you with the old adage that the needs of the many outweigh the needs of the few. And in this case, we have many full-time positions that should be filled first and then our part-time ones (somewhere in the mix) can be filled at a later time. Thank you very much, Chief.

>> Thank you. Justice Hull, then Judge Slough, then Judge Rosenberg.

>> Judge McCabe's comments bring a couple questions to my mind. In response to Justice Baxter's question, if I heard correctly, this is a methodology that is embraced by the National Center for State Courts. Did I hear that correctly?

>> Let me clarify, the methodology that we used to calculate judge need, the methodology we used to establish the case weights and multiply times filings to come up with an estimate of the number of judges needed statewide, that's the methodology endorsed by the National Center for State Courts. The prioritization and the way that we determine which courts are first in line for new judgeships is not something that we partner with the NCSC on. I believe they helped us when they developed it initially. It's a methodology that is the same one they used to apportion seats in Congress. I would say it's a known mathematical formula. Let me clarify that's the portion they consult on.

>> As to the needs portion of it, that is based on NCSC methodology. Has that methodology been accepted, validated in other parts of the country as being a reasonable predictor of needs? You mentioned something about Congress. Is it, has it been accepted elsewhere?

>> The judicial needs assessment methodology that the National Center has developed is like a package or a type of study that is endorsed and used in many other states to measure judicial needs. The types of matters heard in different states vary, so the caseweights and the names of the type of cases may be different. But the underlying method by which we arrive at the judge-need numbers is fairly consistent among the states that use NCSC's method.

>> My last question is for Judge McCabe. Listening to your concerns, is it your thought that if—I shouldn't say return to because we haven't departed from—but continue to use the methodology that we had for the last 13 years? Would that ease your concerns that you expressed here today or is there some third possibility here?

>> Number one, I won't take credit for having the definitive answers. So I hope I'm not projecting that. Number two, the response really deals with recommendation number one, which is developing the need. I have no problem with that. Based on their assessment, they need about 270 judges, no question, no problem. I think that's accurate. The problem I have is with number two: altering the formula to lowering the threshold from a full-time down to a part-time which is .80. About three quarter, a little over three quarter. I think there are pragmatic and political problems with that issue. So I'm raising that. I may be completely voted down and that's fine. That's what we do here. This is what the Chief encourages, so I'm following that directive and

making sure the alternative voice is heard. I would like and I'm suggesting for number two that if it goes and we have a meeting, which we have a joint meeting in January in Sacramento, in late January for both the presiding judges and the CEOs, and the sense is yeah, this is something we think is okay. Then I'm okay with it.

>> Just as long as I have the floor I'll ask, do we have the luxury of time to further assess this? Are we required to make a decision before the end of 2014?

>> No. There's no requirement. And part of the reason we felt like this was a good time to do it is that there are currently no new judgeships at stake. There was this fairly neutral time to bring up the item. But we don't need to submit it to anyone or report on it. It would only become a factor if there were judgeships authorized for the branch that we needed to allocate or prioritize.

>> Thank you, Chief.

>> Judge Slough, then Judge Rubin, then Judge Rosenberg.

>> First I want to say that this item was on the agenda, I think at the last Judicial Council meeting. I want to thank Justice Miller and others. It came to my attention as I was preparing for the meeting and it was new to me and as the chair of the presiding judges I wanted to assure that, as Judge McCabe points out, we did have an opportunity to inform the presiding judges at least and provide them with the material so that they could weigh in on their thoughts and views. So consistent with that, the item was pulled off the agenda, and I e-mailed to the presiding judges all of the materials that have been submitted for us today. Justice McCabe ...

>> Elevation? Thank you.

>> Justice --

>> You told me I have to call you that.

>> [Laughter]

>> Touché.

>> I digress.

>> [Laughter]

>> In any event, Mr. McCabe, is correct in that we get very few responses. But I do want to read to you one in particular. And it is consistent with a couple of phone calls that I received. And I think it points at the issue as it relates to the small courts. I will state, Justice McCabe says he started off with a yes and went to a middle ground and then kind of came to no, I don't think this

is what we should do. And I'm going to tell you that I am the inverse of that. I started off with no, can't do this. But you all see who is number one on the list. And as I stepped back and looked at it, and then I got to the lukewarm water portion, and then I received the e-mail, and a couple of calls, I went to the yes side. Let me read you the e-mail. I support the revision. As smaller courts are disproportionately impacted by judicial vacancies, many of our courts are spread over a large geographic area, making it more difficult to have economies of scale or to move cases from location to location to promote judicial economy. This is not to downplay the significant need of the larger courts, particularly those in the Inland Empire. If I am down .8 of a judge, that means I have a 15% to 20% vacancy rate in terms of its practical application. In a two-judge court, that could translate to a 50% vacancy depending on the overall caseload. That e-mail made me stop and think about what is the distinction between, and difference between, the impact to a small court and a larger court? If they have a .8 need, and they have two judges, and now they don't have another judge, they are almost a constitutional crisis because they don't have enough people to call their case in. In a larger court, at a full 1%, if we need someone it means a difference in our caseload. We just pile up the piles and call more cases. It doesn't create the same potential crisis. Hard, yes. Need, yes. Necessary, absolutely. But a real distinction in the difference between .8 and 1.0, I believe. I also had an e-mail, this was maybe pressing it, on November 3. And it said my only concern is what happens if Prop. 47 passes? And I don't quite know how that fits into the formula. But again, I think we're all addressing Prop. 47. So I think you see that, I've heard comments similar to Judge McCabe's as well. So I think that really when it comes down to the presiding judges, no, we have not heard from all 58 and no we haven't had a full briefing to have the benefit of having Leah explain the process. Yes, it is very detailed and many of us may not understand it to the extent we can and should and would if we had that benefit. But I think really, we do kind of fall into these two categories. I think it is a policy issue. It is an important policy issue. And I just wanted to share my perspective with all of you on that.

>>Thank you, Judge Slough. Judge Rubin? Judge Stout? Judge Rosenberg?

>> I want to start by thanking the WAC for their difficult and hard work. I appreciate all the hard work especially by you. And I think what I get from these charts—as I understand from Lorna Alksne—that this is not so much anybody losing a judge as much as the timing of getting the judges. The third group, which doesn't exist, but it's more about timing and actually getting. However, I also perceive this as a significant process impact and how we as a council and branch do business. Since there's nothing imminent in terms of these judges being distributed because we don't yet have the funding for them, what would the harm be in a more robust discussion at the PJ's committee or the CEAC committee and also —I would like—if I had my druthers to see a report with more options in it. We have only the two items one and two but no variations on that for us to consider as a council given the significant policy ramifications that are at stake. Thank you, Chief.

>> After Judge Stout and Judge Rosenberg, Jim Fox.

>> Thank you, Chief. I support the proposed revision. And I can't articulate my position any better than Judge Slough did. I appreciate her articulate presentation. Judge McCabe always gets me thinking, though. I appreciate thoughtful consideration. But I do think as Judge Slough suggested, it's a matter of the inability to share the pain or spread it out. I think this is a similar policy issue that we face with the WAFM and why we have the small court adjustment. It's particularly the two-judge courts and how you distribute or your inability to distribute that pain, so to speak. On the other hand I'm certainly not opposed to the matter being vetted more thoroughly with the Trial Court Presiding Judges Advisory Committee and the executive officers. I think that's always appropriate to ensure that it's been fully vetted. Again, thank you.

>> Thank you, Judge Stout. Judge Rosenberg?

>> I always appreciate sharing a few minutes in the brain of Judge McCabe and his thought processes. He's raised a good point but I will tell you that I'm perfectly fine with the recommendation number two. At bottom, this affects really small courts. And if you have a court of two judges, for example, losing the possibility of an additional judge has huge impacts on a two-judge court. On a 100-judge court, deferring that additional judge has less impact. You can deal with it. It's a question of volume as Judge Slough indicated. So the impact on the 2-judge court or the small court is far greater on that one judge. So I think it's frankly a tweak, not a huge modification. And it's certainly a tweak that is acceptable to me. I'd be willing to implement it immediately.

>> Thank you. Jim Fox.

>> Chief, I spent 10 years on the Court Profiles Committee where Judgeship Needs Committee. It was chaired by Judge Tom Nuss. These are issues we looked at very, very closely from 1990 to 2000. What I would like, following up on what Judge Rosenberg and Judge Slough said, it comes down to a question of severity of need. If you have a two-judge court that has a .9% greater need for a position, that impacts that county significantly more than a 100-judge court that doesn't get two positions because that's 2% of their judicial needs, whereas you've got 50% or almost 50% in the small county. But I also think that we are going to need ultimately to look at the issue as painful as it may be, for those counties which would have been described as quote, surplus judicial positions. And ultimately, we're going to have to examine the possibility I would suggest, of transferring to those counties with greater needs especially in situations where there are vacancies. We know that the Governor is not quick to fill vacancies anyway. But we are a statewide body and we're going to have to look at the allocation of our resources.

>> Judge Anderson.

>> Sometimes you know I like to do quotes. I'd like to offer a different perspective. We've been defining it as a judge problem rather than a people problem. Albert Einstein said in matters of truth and justice, there's no difference between large and small problems. For issues concerning the treatment of people, they are all the same, and so this is a problem about the treatment of

people. Not the difficulty of the workload of the judge. So if you understand that the problems of the people, whether in large or small courts, are the same then you look to say how do we share the resources so that people have access to justice all the same? If we take a look at it from that perspective, then I don't care how large my stack is or what my stack is. What they care about is how many people walked through the door. So this is allowing us to have more people walk through the door in the large and the small courts. And so that's why I would be in favor of number two, notwithstanding the PJs, on that motion we can vote on the PJs' team now. But it is about access to justice for the people, not the workload of the judge. And in matters large and small, it is about the treatment of people. Let's treat people fairly, large or small.

>> Thank you, Judge Anderson. Justice Miller?

>> Being from Inland Empire, I know personally the impact of lack of judges. Those would be the first to say that if a small court has .80 needs, they should know they should be included. So I move that we approve both one and two.

>> Second.

>> The second is by Judge Nadler. Did I hear another second?

>> One second is sufficient but Rosenberg, we haven't had our parliamentary primer yet.

>> Guys are slacking.

>> It's good for those not watching to know that there is multiple support for the motion. Any further discussion on this matter? I think it's been pretty illuminating. I think it's fleshed out the struggles and ultimately it really is a policy question as I think we all agree with that. Let me also say, this is a misnomer but it's an efficient use. I don't mean this literally, but reference to surplus judges has been percolating. There is a discussion about that. That is not new. We've been having that. So not seeing any further hands raised, all in favor of recommendations one and two? Please say aye.

>> Aye.

>> All opposed?

>> No.

>> I believe the ayes have it. Two no's are noted. The matter passes. Thank you for bringing this to us. It's complicated, it's clear it's a policy decision. Thank you, Judge Lorna Alksne. Thank you, Leah.

>> The next item on the agenda is item U, legislative priorities for 2015. It's an action item. We welcome Judge So and Corey Jaspersen.

>> Thank you, Chief. Policy Coordination and Liaison Committee is bringing to you the following legislative priorities for the council in 2015. Essentially there are three. They are set forth on page two of this item. The first deals with a method to continue to fund the courts and included in that effort would be a request to extend some of the sunset dates on the increased fees. And as I understand that, some would be about \$40 million a year. Number two deals with seeking funding for critically needed judgeships. And we are requesting that we seek funding for 10 of the remaining 50 unfunded judgeships. We are attempting to be practical here after having conversations with a lot of the players that would fund these judgeships. And number three deals with legislation to allow the courts to use interpreter services in certain civil cases. Is there anything else you'd like to add?

>> I think Judge So has hit the highlights. We have some additional information in the memo regarding efficiencies. You can see the handful of efficiencies that we were able to get changed in statute over the last couple of years. And we will continue to work in that area. Happy to answer any questions in that regard. We also laid out for Judge Rubin three options (there could be many, many more) for seeking additional judgeships. That's laid out in the memo as well. Also inserted, a little chart to give you an idea of what the cost implications would be on the different scenarios for rolling out judgeships that you may find interesting there on page 10 of the memo. And finally I included attachment A, which is a very long list of all of the efficiency and cost recovery new revenue proposals that were rejected by the Legislature in the last two years. So, I'm happy to respond to any specific questions there.

>> I'd like to thank the members of the PCLC committee for working through these proposals and priorities.

>> Thank you. Judge Rosenberg?

>> One question. Thank you, Chief. I'm completely in support of the recommendations. They are right on. But is it appropriate to raise the issue of money that was borrowed from the construction funds? Is that being paid back? Or is that just being forgotten or diverted, or what's happening with the borrowed funds? I use the term borrowed.

>> They were borrowed funds and redirected funds because of a schedule for the construction funds that were loaned to the general fund. And they'll be paid back according to the schedule over the next three or four fiscal years.

>> And you've heard nothing to indicate that that somehow is not happening?

>> No. Nothing.

>> Thank you.

>> Judge Tangeman.

>> I may be following the double example set by Judge McCabe, impossibly toiling against a windmill here but I'm going to proceed. I certainly am aware, as all of us are, of the desperate and precarious financial position that the courts are in. And I certainly support wholeheartedly the priority given to adequate, stable, and predictable funding. I'm very troubled and concerned as I know many other judges are in the state of California by the movement that has occurred and is continuing to occur to a fee-for-services concept. We have seen general fund support according to these documents. We've seen to-date decrease from 6% to 25%, and understand the 56% to 25%, and understand a practical reality is here. I'm troubled by what I also see as the diminution of what has been described by Mary Beth Todd as our core mission, access to justice. Shifting costs to users will have an inevitable effect of inhibiting public access and use of the courts by the public. That's been borne out by statistics we've seen with lower civil case filings, certainly borne out by common sense. So I am very concerned that by proceeding with the proposal which would include sponsorship, of extension of sunset dates for increased filing fees in order to support the courts, that we are essentially setting forth our position that this is an appropriate answer to the budget shortfall. And I think that it inhibits and diminishes our core mission of access. I don't know how far we can carry this on or how far we should carry this on. But I think that we are dangerously close to moving into a mode of institutionalizing permanent increased fees in order to perform "justice for most." And so as written, I just wanted to explain why I am going to vote no on this proposal so people understand. I fully support every other concept in it.

>> The concern—I think it's a legitimate concern after our discussions with the principal players dealing with the budgets without these fees—it would directly affect the bottom line of the trial courts. And Martin I think has further comments on this issue.

>> Judge Tangeman, I think you are tilting at windmills and maybe I can impart some of the language a little better. When we make a reference to a stable and reliable funding model for the courts, we're talking exactly about what you're talking about, which is what you're referencing actually, an unreliable funding source because it adds and flows depending on how users are using the system and how we are making the system available for users. And so I think it's part of what I was referencing in my earlier comments of the budget work to be doing during the course of this year, which is to figure out what is the formula potentially that provides more stability and more reliability, and fees are part of that discussion. I think, going forward, that we need to have it—certainly in our branch but then also with the Department of Finance as well as the Legislature—because the budget has shifted off the general fund and is more reliant on other sources. Those sources move up and down and there's an argument or at least a debate to be had about how stable is that, stability being a relative thing. Fees are actually part of that if that wasn't necessarily clear in the materials. I wanted to impart a little more of that for the members: that that actually is part of the discussion going forward but in the interim, here, we do face the

sunset and it's a question of can we get off that and replace it with something else? What is that something else? What is the right fee level structure, and how should it be amended based on what is happening in the system?

>> Judge Back.

>> I wish I could be as articulate as Marty but I have the same thoughts. I understand, in the financing package that we have to adopt, that these things have to be addressed. I think it's sad that we have to, as a body, vote on this type of issue increasing fees. The people who can afford it are not going to have any problem paying fees. There's a lot of people out there that cannot afford these fees. Having said that differently than Marty, I would be voting for it because I think we are compelled by forces which we've been working against (and with) to make the type of decision we have to make to make sure we are doing the best we can to address the most people we can, and I certainly look forward to when we can vote on a reduction of fees. But it's just sad right now we have to be voting on extending a sunset on the backs of those people who can't afford it.

>> Let me say too in one of my liaison meetings earlier this month, this very topic—exactly what you raised, Judge Tangeman—exactly what Martin has raised, and exactly what Judge Back has raised, the lifting of the sunset was discussed as well as the proliferation of other fees that have been coming up in the courts. Realizing that that is not the stable way to proceed and realizing that it is justice for most. So it is very much discussed and very much a concern. So I appreciate your bringing this discussion.

>> I want to make another point of clarity. Your vote today is not a vote to increase fees. That is not what is in front of the council today.

>> Judge Rosenberg?

>> As a matter of parliamentary procedure, we could have two motions. One would separate the last part of recommendation number one regarding the fees. People could feel free to vote no on that. And then there is another motion relating to the other recommendations. I would hate for Marty to feel compelled to vote against all the recommendations in one motion.

>> That troubles me a great deal.

>> We can take the recommendations separately.

>> Could I make a motion? I move right now only that portion of the recommendation relating to the extension of sunset dates on increased fees. I move only that portion. And then I can make a second motion related to everything else.

>> Can I get a clarification of what that means? What you want to do?

>> Only the last phrase. Did you have it before you?

>> I'm trying to get it online, but I'm not quite understanding what the consequences of that are. Are you against stopping the sunset?

>> No. I am moving the recommendation that begins with the words "including seeking" the extension of sunset dates, increased fees implemented in fiscal year 2012–2013 budget. Then there's a listing of several fees that would be sunset. On moving only that portion.

>> Could I comment on that? I think that that's actually backwards. I think what I would be voting yes on would be everything without that. And then that would be the second thing, and then I would vote no on that. If I vote no on the first and then the second proposal, would it be about everything? No again.

>> Second motion would be everything else.

>> That's fine.

>> So I'm going to have clarification, Judge Rosenberg. I see item one on page two. What you're seeking to do is after the word "revenue" in the third line up before the bullet, you want a period. And then your amendment, I believe—I know you'll correct me if I'm wrong—is to delete: "including seeking the extension of sunset dates on increased fees implemented in the fiscal year 2012–2013 budget, a sunset date of July 1, 2015, unless otherwise noted"?

>> Not quite. What I'm doing is they have made three recommendations. I'm simply splitting them into two parts. The first part is a motion to approve that part of recommendation number one relating to the fees: extending the sunset. And then Marty can feel free and others to vote no. Then the second motion would be to approve everything else.

>> One, two, and three.

>> That's what my second addressed.

>> Okay.

>> I haven't made the second motion yet. Yet.

>> Have I made it clear?

>> Not quite.

>> Okay. Then let me withdraw my motion, and I don't know any other way to make it easy for Marty.

>> I can make it easier for me if you will allow me. I will make a motion now that we approve one through three without that section. And then the second motion would be the motion to approve one through three with that section.

>> That's an easier way to do it.

>> Is everyone clear about what section we are referring to?

>> Would you tell me which item number? I can't find the page.

>> It's on page two in the binder under item number U.

>> This is Judy. I have it in front of me but it is getting confusing. For those of us who are doing it by conference call.

>> Forget everything I said. It's Marty's motion to approve the recommendations without the extension of sunset.

>> I will articulate it. It is to approve numbers one, two, and three as proposed with one exclusion. The exclusion would begin under number one near the bottom of the first full paragraph, which starts, "including seeking" and through the end of number one. So my motion is to approve one, two, and three with that section excluded.

>> Okay. Is there a second on that motion? Second by Mark Bonino. Going to do ...

>> Can I make a comment on this?

>> Of course.

>> Now that I understand what it is, I think we should not extend sunset now. We have fee waivers. I'm sympathetic to the people who cannot afford to file their matters but we do have fee waivers to do that, and we have the ability to take care of most of them. With regard to the regular visitors that I have in my court and that many of us have, there's been no complaint about any of these fees. We've taken, in Los Angeles, over \$7 million in complex fees. This year that is going to go to the benefit of the court and I understand that, statewide, it's \$20 million.

>> Thank you. Justice Hull?

>> Can I be heard?

>> I didn't know if you could hear me.

>> We also, this is a revenue source that we have that most of the people—a lot of people—are paying and is bringing a substantial revenue. At this point we don't have anything to replace it with.

>> Thank you, Judge Elias. Justice Hull?

>> It's more of a question and more of a parliamentary question. Given Judge Tangeman's motion, if we voted, the sense around the council is that we would agree with that motion. The point of disagreement has to do with the sunset provision. If we vote in favor of that motion, which excludes the sunset provision, do we have the authority to go back and entertain a second motion that just proves that language?

>> Yes. I understand this is the motion's but there's only one motion before now that has a first and a second. It is items one through three but not supporting extension of the sunset. At that motion, you have an opportunity to vote aye or no. So hold your powder, and we'll see how it goes with the first motion and the second.

>> The only problem would be if it does pass. Let's not worry about that yet.

>> Just so we're clear, the first motion is items one, two, and three without advocating for the extension of the sunset. And you've heard Judge Elias speak to that. The roll call vote, all in favor—I'll have Martin call this.

>> Judge Anderson?

>> No.

>> Justice Ashmann-Gerst?

>> No.

>> Judge Back?

>> No.

>> Justice Baxter?

>> No.

>> Mr. Bonino?

>> Yes.

>> Judge Brandlin?

>> No.

>> Judge De Alba?

>> No.

>> Judge Elias?

>> No.

>> Mr. Fox?

>> No.

>> Justice Hull?

>> No.

>> Ms. Melby?

>> No.

>> Justice Miller?

>> No.

>> Judge Nadler?

>> No.

>> Ms. Pole?

>> No.

>> Judge Rosenberg?

>> No.

>> Judge Rubin?

>> No.

>> Judge Stout?

>> No.

>> Judge Tangeman?

>> Yes.

>> There isn't actually a motion yet. What would naturally be on the floor is a motion and a second to approve items one through three as written, which would affirm for extending the sunset.

>> So moved.

>> Jim Fox second.

>> I believe this can do for a roll call vote. I can call for an open vote. All in favor, please say aye.

>> Aye.

>> Opposed?

>> No.

>> Two opposed.

>> Motion carries.

>> Thank you, Corey. Thank you, Judge So.

>> Finally, we conclude today's meeting unfortunately, as we often do, with a brief remembrance of our judicial colleagues recently deceased: Judge Holley Graham out of San Bernardino County Municipal Court; Judge Melvin E. Cohn, Superior Court of San Mateo County; Judge Robert T. Baca, Superior Court of Kern County; and Judge Phillip R. McGraw, Orange County Municipal Court. All were retired from the bench, and we honor them for their service to the court and to the people of California. The next business meeting of the Judicial Council will be in 2015 on January 22 in Sacramento. Happy holidays. Safe travels. Thank you all for attending.

>> [Event concluded]