

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.

>> Please stand by for real-time captions.

>> I believe the microphones are now on. Good morning. This is the business meeting of the Judicial Council of California for Thursday, February 19, 2015. This meeting is now in session. We will adjourn later today at approximately 3 p.m. Before we begin our regular council agenda, we have a new Judicial Council member joining us. I'm delighted to welcome Senator Hannah-Beth Jackson, selected to represent the California State Senate on the Judicial Council. Also a lawyer in a former life. This enhancement to our membership, that is legislative members, was first proposed by Chief Justice Phil Gibson. And it was enacted through a revision of the judicial article, article 6, in 1960. The revision broadened the Judicial Council's membership to include representatives of all groups directly concerned with the improvement of the administration of justice, including the State Bar of California and both houses of the state legislature. At the time it was said, quote, legislative representation on the council would enable it to maintain better liaison with the Legislature and would help prevent conflict between rules adopted by the Legislature—council—and statutes enacted by the Legislature. We do have a very healthy relationship between rules and statutes. Senator Jackson, welcome. If you would join me for your formal swearing in, please stand at your seat. Raise your right hand and repeat after me. I do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California, that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties upon which I'm about to enter. We look forward to a long and healthy relationship.

>> [Applause]

>> As you know, this is the second of our two Judicial Council meetings in Sacramento this year. It's to facilitate direct advocacy with legislators by Judicial Council members on behalf of the branch and the court. The legislative yesterday and in January provided council members with an opportunity to talk about the need for new investment in California's justice system, to discuss how trial courts, Courts of Appeal, and the Supreme Court have adapted to new budget realities with efficiency and innovation, and share first-hand experiences with legislators about how budget cuts in previous years have impacted court operations and access to justice in our state today. Many voices share the needs of our branch and the public we serve, but importantly we have a shared vision for our new funding needs and solutions. Closures, adequate funding, Prop 47, facilities, and reserves I understand were among the recurring themes from the meetings

with the legislators. This is an active council. And I thank the members for their active participation. I thank the office of Governmental Affairs for organizing the visits and our staff here for supporting us in conducting our regular Judicial Council meetings in Sacramento. Our first item of business is the approval of the minutes of our January 22 meeting. After review, I'll entertain a motion to approve the minutes.

>> Move minutes.

>> Second by Jim Fox. All in favor please say aye. Any opposed? Minutes are approved. The next order or matter on our agenda is my regular report as Chief Justice to the council summarizing my engagements and ongoing outreach activities on behalf of the judicial branch since we last met in January. Although this was a short reporting period, the topics of my engagements and activities ranged from undocumented and unaccompanied immigrant minors and diversity and the future of California elections. I was pleased to participate in a video celebrating the recognition of California's law and legal service academies by the American Bar Association with their Alexander Award. It recognizes the California Academy's work to support racial and ethnic diversity in our legal profession. In 2014, these law academies in California had 500 graduating students. And more than 1,000 members of the local legal profession and community were and continue to be actively involved in teaching, supporting, and encouraging nearly 2,000 students. Behind the numbers you should know that these are real young people with real issues and real needs and at least 50 percent of the students have been identified in these law academies as at-risk students to graduate. We know in the court system that students who were suspended or expelled are almost three times more likely to come in contact with the juvenile justice system. One of these law academies and my high school alma mater became—C. K. McClatchy—visited the Supreme Court during our oral argument session in Sacramento earlier this month. Special thanks to thanks to Frank McGuire and Jorge Navarette for facilitating this useful court outreach and civic learning opportunity. I'm aware that all the Courts of Appeal and almost all of the trial courts engage in some sort of outreach and mock trial and moot court. And I believe that this is essential to the public's understanding of our work and I'm grateful for all the work that's being done. Children and teens were also the hot topic for a panel discussion I participated in the midyear meeting of the Conference of Chief Justices in San Antonio, Texas. I joined a panel including Magistrate Judge Julie Breslow from the District of Columbia; Immigration Judge Dana Marks from the United States Department of Justice in San Francisco; Dr. John Martin, Director of the Center for Public Policy Studies, Immigration & State Courts Initiative; and Texas Administrative Director of the Courts David Slayton. We discussed how state laws give their state courts, our trial courts, a primary duty to protect the rights and welfare of all *resident* children and how the influx of undocumented and unaccompanied children from other countries, particularly South America, had created an intersection of federal immigration law and state child welfare and child custody law in the special immigrant juvenile status process. Our Legislature and the Governor last year enacted SB 873. It affirmed court authority and provided some funding for legal representation for these children. We've already provided some guidance to judicial officers on this subject, and we are cosponsoring a judicial forum on the special immigrant juvenile status with the San Diego

Superior Court in March. The midyear meeting of Chief Justices also dealt with discussions and presentations relating to evidence-based sentencing, pretrial reform, and adult and juvenile correction. Former Judicial Council member and Sacramento County Superior Court Judge Roger Warren was one of the lead presenters. On Judicial Council business, I attended the statewide business meeting of the Trial Court Presiding Judges and Court Executive Advisory Committees. We had candid discussions about issues affecting the courts and a useful exchange of thoughts and concerns among court and branch leadership. Twenty-two new presiding judges began their terms this January, and we also had a number of new court executives. *New* was also the theme for the New Appellate Justices Institute. This was one of the largest appellate justice institutes for new justices in some time. Many vacant seats on the Supreme Court and Courts of Appeal have now been filled by the Governor, enriching the existing talent pool on appellate court benches. I had the great pleasure to share the stage with legal counsel for the San Francisco World Series–winning Giants. When the Santa Clara University School of Law honored me with their Social Justice and Human Rights Award at their annual Diversity Gala, the Giants were the Organization of the Year Award winners. Judge Richard Couzens, whom we all know, a former Judicial Council Distinguished Service Award winner and an expert veteran lecturer for Judges, is still trying to retire. He coordinated the first of its kind pretrial summit called Releasing Arrestees: Decisions to Enhance Public Safety, with our Judicial Council Criminal Justice staff headed by Curt Childs’ division and Shelley Curran. I addressed a diverse group of judges just the other day at the summit. They were court executive officers, probation officers, district attorneys, public defenders, service providers, and representatives from the Criminal Justice Institute and the Public Policy Institute of California, all of us talking about models and best practices for evidence-based pretrial release. Nationally, as I mentioned earlier with the Conference of Chief Justices, this concept is an effort that’s been growing in momentum. Here, there’s a lot of interest in the Pretrial Programs Grant through the Recidivism Reduction Fund Court Grant Program. You saw on your agenda that there is an item related to this for our business decision later this afternoon. And the ultimate goals remain the same: reducing recidivism while enhancing public safety. And I have said in the past and many times that the strength of our democratic institutions relies on our public’s understanding of those institutions, so I was happy to participate in a conference organized by the Future of California elections to discuss working together for a more inclusive democracy. Attendees included Secretary of State Alex Padilla, election representatives, civil rights and civic engagement groups, government employees, and legislative staff. A lack of civic engagement as reflected most recently in the low voter turnout at the last midterm elections has many negative consequences, threats to our democracy, because the justice system depends on public confidence and trust and understanding of the judiciary. This Judicial Council recognized those threats many, many years ago when it created the Commission for Impartial Courts, as many of you remember, chaired by Justice Chin. From that I created the Power of Democracy Steering Committee based on the commission’s recommendations and have partnered with Superintendent of Public Instruction Tom Torlakson on a number of civic learning initiatives to engage all students. I think it’s an important point to remember that as the Voting Rights Act remains a hot issue, we approach its 50th anniversary. That concludes my report. Next we’ll hear from Martin Hoshino, Administrative Director.

>> Thank you, Chief. Members of the council, we have a specific agenda item a little bit later in the morning with respect to the response to the California State Auditor's report from January. I'm going to defer that and keep the report contained to the regular standing report submitted to you on a regular basis. It is in your materials but I would like to at least highlight one of the big themes in the report this month that has to do with data collection in a couple of areas, specifically one of the ongoing efforts that we are engaging in now is how to improve some of the data we're collecting from the courts in every area in terms of filings, workload, and case processing to augment our efforts with respect to budget management, budget appropriations, and finance. There's an emphasis here on how to make the collection of this information as efficient as it can be, when interacting with the courts themselves, and how to make the process more effective in terms of the information we actually extract and draw for the improvements in our system. The written report references the research staff's work, based on a good set of recommendations that have come to us from the Court Executives Advisory Committee, and how we can implement the improvements on statewide statistics reporting. Enhancements made will allow the courts to submit their filings in the same case-type categories that we'll be using for the resource allocation study. The reason for this is that the enhancements will facilitate and augment the precision in the results for the next resource allocation study that will ultimately feed into the workload allocation funding methodology model that we use for budget development as well as allocations. And other data collection element we're working on that is relatively new is connected to Proposition 47. And we actually have discussed some of those data needs two times this week. First on Tuesday our staff spoke with the Legislative Analyst's Office while they were releasing their report related to the early implementation efforts on Proposition 47. There's a section in that report that talks about state courts and information they think is appropriate. Also in that report, I think I'm pleased to let you all know that we received mostly good news: the LAO, if you are not aware, has concluded and is in a position of supporting the Governor's proposal for \$26.9 million in new funding for the upcoming fiscal year. They find that request to be reasonable based on the information that they have. However they do recommend to the Legislature that they would hold the second year's money subsequent to additional reporting, data gathering, collection—the theme for this particular month. And we were not surprised by that. I think everybody knew that we had done our level best to collect as much information as we could from the quick time that the act passed on November 5 and trying to put together—cobble together—a reasonable request for resources that was contained in the January 10 budget proposal coming very shortly after the passage of Proposition 47. So we will continue to work closely with everybody on that as well as identify the best practices going on. I want to also comment on a meeting we had this morning. Earlier today, Judge Slough and I went over to the Department of Finance with our staff to meet with their staff to talk again about the data collection needs, not only for them, at the state level, because the Director of Finance, by the summer of 2016, has to certify what the actual costs, net savings, are related to the passage of Prop 47. So we were glad to be invited and be there at the table as part of that discussion, and we will be part of the efforts of defining what the overall costs and/or savings are related to Proposition 47 and will continue to work closely with them. I want to thank, also, Mary Beth Todd and the CEOs and their teams, as well as the presiding justices, for continuing to work with us on the flow of information related to Proposition 47. It's going to be very critical as we go

through the year to make sure that we are cobbling together the right information in support of the budget request. The next thing I wanted to highlight is some court innovation and efficiencies. I haven't been able to get out as much as I would like to to some of the actions of the trial court, but I've gone to a fair amount. In between the two meetings this year was able to get down to San Bernardino and get a tour of some of the things that the new courthouse can do in terms of its innovations and efficiencies. I actually got to see and witness a DMV style of where you are actually going in to make your filings. It was stunning to see that there was actually nobody really waiting in line, because it's the efficiency of being able to get your number, be able to go to the different windows as you are called up in a random sequencing. It was funny because just two weeks ago I was at the DMV doing the very same thing and had the very same experience. And I thought it was fantastic to see that as compared to some other courts that are older that I've gone to where I can see they have the old style of how it is that they are actually processing filings and the public. And in terms of being smart, of maybe keeping people out of line and serving the users efficiently, they have a process where they have a walk-up/drive-up window where you can pay your fines, much like walking into a movie theater, where you simply go to the window and you show your voucher or your invoice or whatever it is and you can make payment there without ever actually having to come in to the courtroom, to go through security, to be processed. So these things seem very simple but I think they are a big deal and they ought to be highlighted and we should make people aware of some of the advancements or changes that are occurring in our system today. The other one was this domestic violence e-delivery program that they've come up with there, finding a way to give the citizens of San Bernardino County online access in a very user-friendly way to the forms that are necessary. And rather than making long trips over mountain passes on mopeds, to only find that you've arrived too late and the window is no longer open for you. I just think these are great examples and I'm happy to report and share those with the council members. And on a positive note, I wanted to let the council members know that the Chief and I will be recognizing a lot of the Judicial Council employees for their years of service, serving anywhere between 5 and 25 years. This goes in the spirit of honoring the great public service contributions of the 19,000 trial court appellate and Judicial Council employees tirelessly working in our court system and sometimes under trying conditions over the last several years or so. I wanted to make members aware that we would be doing on behalf of you all at the Judicial Council. Thank you, Chief, members.

>> Thank you, Martin. I turn the matter over to Judge Rubin to handle public comment.

>> Good morning, everybody. We are entering the public comment portion of the meeting. There are a number of speakers here today, 17. Each speaker will have 90 seconds to make the presentation. We cannot hear comments about individual cases or judges but we would like to hear your comments about judicial administration. What we will do to make it go efficiently is I'll call the first speaker, who will come up to the lectern, and then the second speaker. So we will have Mr. Gorelnik come up to the lectern. We'll have Mr. Sanker come up and stand by the speaker off to your right, and then I'll keep calling the next speaker so we keep moving efficiently and we will get through this morning. With that, Mr. Gorelnik, 90 seconds. Thank you.

>> Thank you. Good morning, Chief Justice, council members, and council staff. My name is Mark Gorelnik. I represent Captain Tom Matoosh, a San Mateo County resident. I'm not here to read aloud my written comments that you have before you. But I'd like to make a few additional points. There's ample reason to believe that funds provided by San Mateo Superior Court are not the full measure required by law. Surrounding counties generally generate roughly 10 to 20 times as much in the way of funds for fish and wildlife programs. There's the past audit that found the specific problems I identified in my written comments. Even San Mateo County 10 years earlier was providing six to seven times as much money to the fund as it has done recently. There may be other explanations. Perhaps San Mateo County residents are especially law-abiding, perhaps the California Department of Fish and Wildlife doesn't enforce the fish and wildlife laws in San Mateo County, or perhaps there's a right dose a high rate of dismissals in superior court. We don't know. Only an audit will determine the true explanation. I'm happy to work with the administrative office staff to get to the bottom of this. Thank you very much for your time.

>> Thank you very much, Mr. Gorelnik. If we can have Mr. Sanker approached the lectern? And if we can have Captain Taras take his place.

>> Hello. My name is Hazart Sanker. I am a resident of Sacramento County and a victim of the family law court. I am a former California State Auditor for over 20-plus years. As I have told a number of my colleagues, on a number of occasions, I have seen a lot of fraud, corruption within the state, state service, state departments, but nothing comes close to the heinous and despicable issues of fraud, corruption, extortion, and child kidnapping as I've seen in the family law courts. Over 80 percent of our children are kidnapped from at least one parent by the California judges, placed in extreme harm, and the harm I'm talking about is in regards to the biggest problem that we have here in this country, US, the child murder death rate, caused directly by these issues with the family law court. The US child murder rate is 300 to 400 percent that of any modern developed country. The US child murder rate is an epidemic, the BBC reports. UNICEF, United Nations International Children's Funds reports America has the worst record of child abuse and homicide in the world with an average of 27 children killed every week. With thousands of children murdered every year—

>> Thank you very much and thank you for coming here this morning. I would call Ms. Stephens—I'm sorry, sir—to come up. And Captain Taras, take the lectern.

>> Good morning. My name is Captain Curt Taras, United States Air Force veteran. Six years ago in 2009 the Sacramento Superior Court ordered my child to be moved to Washington, DC. He's lived there for the last six years. I just returned from visiting him on his 12th birthday. He was subject to a court-ordered move-away from the Sacramento Superior Court. My child has been separated from his father for these six years. He's approaching high school age. And he's struggling. The court did not consider my evidence as a good-standing father in the community and instead took the opinion of a counsel in the area that had served on the State Bar. She was on the State Bar Committee for Judicial Appointments. She provided the recommendation of appointment for the judge that heard my case. That was a direct conflict of interest. The judge that decided my case had a judicial recommendation from the State Bar, and the attorney who sat

on the State Bar Council for Appointments was the opposing counsel. When you have conflicts of interest like that, it screams of unfairness and injustice. So I ask you to stop child move-aways and also ask you to support legislation to create a new tax filing status, a joint parenting tax filing status. Right now we have three tax filing statuses: single, married, and head of household. A new one should be created called joint parenting.

>> Ms. Stephens, come up to the lectern. If Ms. Scyoc could take her place at the speaker.

>> Sharon Stephens, and I'm affiliated with the Center for Judicial Excellence and I am from Riverside County. Thank you for this council that allows me this opportunity to speak. There's no doubt we are in a crisis in the courts from traffic court to murder cases. But there is nothing so blatantly evident as in family court. I believe, though, that we are now in a place where we are at a tipping point to change what's going on. We live in a society based on rule of law, yet I have been in court in eastern Riverside County and witnessed judges and commissioners totally ignore the law, handing out restraining orders that are basically void because they are not based on the statutory requirement. I know what it's like for a child to be ripped from a family. At age four I was made a ward of the court and one year went through three foster homes and then into an orphanage for seven years. My heart and mind were broken. We're doing this more and more to our children. We need to really pay attention to the repercussions that we're going to suffer as a society with children that have these problems. There's a time for anger and criticism. It helps bring attention to the problem. But the time is long overdue for finding solutions. Now is the time to find solutions and perhaps have a public hearing and to let the public know the facts and contribute their opinions. Thank you very much.

>> Thank you very much. Ms. Scyoc come up to the lectern and Ms. Russell take her place at the speaker.

>> My name is Vickie Van Scyoc. I'm an RN with over 30 years' experience in ICU, OB, peds, psych, and energy medicine. I have five sons and my story is also horrific. I represent Butte County. Published 2-16, "Dear Editor, Judges are known for their virtues: justice, honesty, lawfulness, fairness, ethics, morality, respectfulness. In reality, their hearts are dark, their motives self-serving, their virtues nonexistent. And retaliation is harsh. While girls are being raped by men, their focus is on new \$65 million buildings. While boys are being beaten physically, verbally, their focus is on parking lots. I will quote what justice is. Justice must be sacred; the rights of all people must be guarded. The organization of the world and tranquility of mankind depend on it. The light of justice, the light of men is Justice. Its purpose is unity. Everyone will be held responsible for their actions beyond this earthly life. The laws of society must be formulated and enforced in such a way that it is not possible for a few to amass wealth and for others to be destitute. Human affairs in their entirety should be governed by the principle of justice.

>> Thank you very much. And Ms. Russell, why don't you come up to the lectern? Ms. Morris, take your place by the speaker.

>> Good morning, members of the council, Chief Justice. I'm Kathleen Russell, the Executive Director of the Center for Judicial Excellence. As many of you know this is the fourth meeting in a row where we have brought people from all over the state of California asking you for a public hearing on the crisis in the family courts, which we have been coming and telling you about for the last nine years. We are also rather upset today that you are denying media access to videotape the testimony today. We had a video team that is recorded in San Francisco that went through the proper protocols to videotape today and was denied by Nancy Carlisle, similar to the October 28 meeting where you denied the ability of members of the public to testify having said the day before that we were welcome to speak on specific agenda items. You are changing your rules every time. You've got people driving 12 hours back and forth to testify in front of you, to share their heart-wrenching stories of how their lives have been devastated by the failures of our court system. How difficult is it to get a public hearing where you all can give these issues their proper do? The courts are trafficking children to abusers and pedophiles. And we hear about it every day. And we are not going away. We're going to be here every time through 2015.

>> Ms. Robinson, come up. Ms. Robinson? And if Ms. Winternitz would come by next to go after Ms. Robinson?

>> Good morning, council. My name is Kim Robinson. I'm a family law attorney based in Oakland, California. I've practiced in family law for at least the last 20 years. And I have cases all over the state of California. I, too, along with Ms. Russell, am very concerned about what appears to be a lack of seriousness by the Judicial Council in granting a public hearing about the crisis in the family courts. I can tell you that if you hold a hearing, I will bring you documents to show you that the trial courts, many of the trial court judges in family law courtrooms, are not adhering to California Rule of Court 5.220, which has to do with the protocols surrounding child custody evaluations. Children are being abruptly ripped from a perfectly fine custodial parent and handed over to sometimes even abusive parents of based on custody evaluations that do not meet the rule that was passed by this council. And quite honestly appellate courts are not enforcing them either. So we also have cases—I can bring you the proof if you would hold a public hearing and take this crisis seriously—that children, even where there are findings of substantiated by Child Protective Services, in various counties, children are still being ordered into the custody of—

>> Thank you very much. Ms. Winternitz, if you'll come up. And we will have Ms. Hulsebus.

>> Thank you for the opportunity to speak. My name is Tami Winternitz. I was here for your October meeting. I'm a resident of Butte County currently, having relocated from San Diego County two years ago and having extensive experience in the San Diego courts and previous to that, Yolo County. I'm a child development specialist and a director for early childhood education programs in Northern California now. I work for a federal- and state-funded nonprofit agency, and I have 74 families with children in my caseload under my charge. These families frequently interface with the legal system. They depend on fairness and just application of the law. I renew my request for a public hearing along with the myriad requests you have received since your October 2014 Judicial Council meeting. I come to you, the Judicial Council, the

oversight policy-enforcing body of our judicial branch of California. We have enormous problems with judicial accountability in our trial courts. We need judicial performance reviews. I bring to you real and current concerns with trial courts refusing to enforce the California Rules of Court 5.220 and the court-appointed custody evaluators violating these rules, forcing litigants into the expensive, arduous, and time-consuming process of an appeal. Please grant the public hearing. I'd like to say the consequences of the violations of the California Rules of Court are inhumane to children. Thank you very much.

>> Ms. Hulsebus, if you'll come up. And Mr. Snell, if you will come to the speaker?

>> Thank you all for hearing us today. I'm looking at your website. I don't know a lot about your council, but your website says that you guys are responsible for ensuring consistent, independent, impartial, and accessible administration of justice. I'm here before you to tell you today that I know from personal experience you are failing miserably to do that in the California family court system. Every time I see a child on the news that has been killed by a parent where the other parent tried to protect that child, the buck stops with you guys. We're asking you for a public hearing, a simple public hearing, to at least show some interest in this, show that you care. Because I don't want my child to be the next dead child on the news. And that's what might happen in my case. So you can all look at me today, you can ignore me, you can consider me crazy. But I urge you to take this serious. Give us this public hearing because it won't solve the problems in the family court system, but it at least will be a step in the right direction. It will say to the family court judges that you guys are taking this issue seriously and you guys care about us and our children and the children that have died because family court didn't give justice, wasn't unbiased. Thank you.

>> Mr. Snell, why don't you come on up? Then we will have Ms. Saia.

>> My name is E. T. Snell, etsnell.com. This is no more than a criminal enterprise, what you guys are doing. Foster care has become an abomination and needs to be ripped up by its poisonous roots and reconstructed. Kids have become a commodity at \$150,000 per year. Judges are signing court orders to medicate children on off-label psychotropic medication—as young as two years old. You have to see Mad in America, Peter Götzsche, Google it. The psychotropic medications—what they do to children 20, 30, 40 years later—is unconscionable. There's no way in the world that you can allow that. Ten percent of children are physically abused, seven sexually abused, that's 83 percent shouldn't be taken. That's an absurdity and abomination to God. SBX-211, Richard Fine, is another sham. This is no more than a criminal enterprise. You have a copy of my book, Penal Code section 1298 where you post your real estate to the court, yet the federal court gives you dollar for dollar equity and the state court who has picked themselves to the bail bondsmen want double the equity, so a million-dollar bail can cost as low as \$12 since the county has the records on the property. It is insane what you folks are doing. It is insane. My last 10 seconds, I'd like to pray for you people. Dear father, God, we ask you to remove the evilness from this building, the evilness from these people so they can see the children and faces and stop the abominations. God bless you all. May God have mercy on your souls.

>> Thank you very much, and now Ms. Saia, come on up, and we'll have Ms. Jarman at the speaker. Ms. Jarman, come on up and stand by.

>> Thank you. Carol Saia; Oakland, California; Alameda County. Case transferred to Contra Costa County. I'm now living in San Joaquin. I grew up in a very nice family, the oldest daughter of four girls. Compared to my husband, fairyland. I have a degree in human development. I've studied holistic health. I married an abused boy who had been sexually abused by his half uncle many times, many years including the three siblings he had. I thought by marrying him and giving him a secure home, could help heal his pain. My life was ripped out from under me. He lied to the court. He made false accusations. He acted like Mr. Wonderful. Child abuse is original sin. And almost all abusive and high-conflict divorces involve a parent that has been severely abused. There's many different personality disorders, and I understand we are all learning about what narcissistic personality disorder is and how confusing it is and how tricky it is to see it and know it. I wrote huge letters. I've been going through this since 2003. I still only see my children every other week. These are my ideas. I believe that my husband and his lawyer are purposely using and abusing the system. Why do babbling lawyers influence what is best for children? Why does the same judge/lawyer system work for families that—

>> Thank you. If we could now have Ms. Jarman? If we could have Ms. Abbett come up and standby?

>> Good morning. My name is Anita Jarman. I'm coming here from Sonoma County. According to a report of the American Psychological Association Presidential Task Force on Violence and Family, it states and I quote, "To gain control after marital separation, fathers fight to be involved. Recent studies suggest that an abusive man is more likely than a nonviolent father to seek sole custody," end quote. There should be a red flag if an abuser is seeking sole custody. This is a legal abuse is abuse method used. Furthermore the report states and I quote, "Research indicates that high levels of continued conflict between separated and divorced parents hinders normal development. Some practitioners now state that it may be better for children's development to restrict the fathers' access to them and avoid continued danger to both mothers and their children," end quote. In my experience, a violent convicted felon with an active warrant for his arrest for third-degree assault and child abuse got 50-50 custody of our child. There's no reason why anybody who has a warrant out for arrest should have any custody of a child at all. By giving shared custody, the courts are creating a generation of homeless and children who don't feel like they belong. This is unstable and not in the best interest of any child. Please help. Thank you.

>> Thank you very much, Ms. Jarman. Ms. Abbett, why don't you come up to the lectern? If we could have Ms. Hart standing by? Go ahead.

>> Good morning and thank you for having me here today. My name is Daun Abbott and I am a litigant in Contra Costa County. I traveled here from Shasta County today. And I am unfortunately on my seventh year in a high-custody -- I am in my seventh year of custody not custody don't but my seventh year in family court services. I've watched all of your videos since

October of 2014. I've seen a lot of faces and a lot of people come here from different counties across our state. Currently, you guys need to have a public hearing because one to three minutes to talk to you guys is just not enough at all. So I am also here for all the children across the state of California including my own two. Including—who have also been placed unfortunately into the hands of the family court orders. Right now there's a big racket going on from top to bottom in family court services. Children's lives are ruined daily and—under poor judgment, greed, corruption, and a biased mentality. Judges, mediators, evaluators, CEOs, and staff should all be subject to performance evaluations with strict oversight and held accountable. Judicial Council and Senator Jackson, I am asking for mercy for our children. Thank you.

>> Ms. Hart, come on up, and then Ms. Prescott?

>> [Applause] Thank you for having us this morning. This is my third time asking for a public hearing. I'm hoping this is granted. It should be granted. We are people. Our children are people. I'm from Placer County. The court is corrupt. There's people coming from Los Angeles driving to speak today. We deserve a public hearing to show the proof of what we have to offer you. And it's a lot. Senator, I hope you will give us, this council, new breath. Please give us a public hearing. Thank you very much.

>> Thank you very much, Ms. Hart. Ms. Prescott, come on up. If we could have Ms. Anderson waiting to go?

>> Thank you for allowing me to speak today. Not only in California but all across the nation there's a crisis in family court. Pedophiles are growing their own victims. And perpetrators of sexual abuse are being given custody. This not only will destroy a child but destroy the life of the parent trying to protect them. CPS is not appropriate in these cases, and there needs to be a separate division to help these families. This deserves a public hearing. Thank you.

>> Thank you very much, Ms. Anderson. If we could have Ms. Anderson -- I'm sorry -- Ms. Anderson?

>> Hello. My name is Karen Anderson. I'm executive director of California Protective Parents Association. I want to speak about a huge problem and offer a very simple solution that will save the state and federal government money. Children are treated as chattel in family court, and nowhere is this more apparent than the fact that custodial timeshare is directly connected to child support awards. I actually spoke to the attorney that was on the bottom floor of that legislation that made that connection. She said the reason we did that was we were trying to basically bribe dads to spend more time with their children. So we figured if we passed this law, the diminished child support in exchange of custodial time, it would encourage fathers to spend more time with their kids. I thought about that at the time it happened, she said, and wondered if this was a good idea. And now we know it was a disaster. We could probably eliminate 50 percent of all custody cases by disconnecting child support awards from custodial time. There is a really simple solution. I could go into that but there isn't a time right now. But that could be brought up at a

public hearing. We have to take children out of the position of being financial pawns, and disconnecting those two things would do that.

>> Thank you, Ms. Anderson. Now Ms. Rosenberger.

>> Hi, I'm Kimberly Rosenberger, with SEIU state counsel. I'm actually here on behalf of one of our members from the Children's Law Center of Los Angeles. They represent all of the abused, neglected, and abandoned children in Los Angeles County. They haven't received a cost increase since cuts started and wanted me to ask that we get a built-in cost-of-living increase, which would be standard for contracts, so that attrition rates and representation of foster youth can improve. Thank you.

>> Thank you very much, Ms. Rosenberg. That concludes public comments for this meeting.

>> Thank you, Judge Rubin. We will stand in 15 minute recess to address the other elements of our agenda. Thank you.

>> [Meeting is in recess]

>> [We're going to start the next part of our agenda. Chief, I think everyone is back.](#)

>>As you can see next, we have our consent agenda. And you have had a chance to review it. In a moment, Justice Hull is going to speak to it. I want to call out that the consent agenda includes recommended appointment of Judge Ana España, from the Superior Court of San Diego County, to the California Council for Interstate Adult Offender Supervision. It's explained in your consent agenda item. I also want to say that the Executive and Planning Committee places items on the consent agenda in consideration of council meeting time. And to ensure that the work of the council and all of its advisory committees can be as effective and efficient as possible in setting policy and implementing solutions to the issues facing the courts and the branch. An item on the consent agenda in no way reflects the significance of a proposal. We know and appreciate the work of all those involved in our advisory bodies in researching and developing the recommendations for council, not just those named on the agenda. Prior to the meeting, any council member may request that an item from the consent agenda be moved to the discussion agenda, and for today's meeting we have had a request from a council member to move item C, Judicial Branch Administration, the audit report for Judicial Council acceptance, to the discussion agenda. We will have that discussion later today. Before I call for a vote on the consent agenda items, I turn this matter over to Justice Hull.

>> Thank you, Chief. I wanted to make one note for the council, as chair of the Rules and Projects Committee. We have in the materials under item A1 revisions to the Criminal Jury Instructions. They're not in the binder because they are voluminous, but they have them available to us. I just wanted to note in CALCRIM number 3160, the advisory committee proposed adding a paragraph to the bench notes about the conflict of the law concerning whether great bodily injury enhancement applied to murder and manslaughter. That conflict was just

resolved by the Chief Justice and her colleagues in the matter relating—I don't have a citation—in the Cook matter. Therefore, the committee would propose withdrawing CALCRIM 3160 from items in its current proposal previously distributed for review and having its editor at LEXUS add the Cook case, site to the authorities section of the bench notes for convenient reference. I would note that this is a task that falls within the category of matters—small changes to the instructions or the bench notes—that do not require council approval. I wanted to note that for the council, nonetheless. Thank you.

>> Thank you, Harry. With that understanding, item 3.160 as described addressing People versus Cook and the jury instruction is withdrawn. Do I hear a motion to move the consent agenda?

>> Rosenberg, I'll move it.

>> And Judge Nadler, second? Judge De Alba as well? All in favor? Approved. Next is discussion agenda beginning with item H, Judicial Branch Administration: California State Auditor's Report on the Judicial Council. There may be some inconsistency in your materials. This is not an action item despite the statement in the recommendation that asks for approval. This is purely informational. There are no materials on item H. I invite Presiding Judge Marsha Slough and also Martin Hoshino to address this item.

>> Would you like us to stay where we are?

>> Wherever you're most comfortable.

>> Okay, I'll just stay right here because I like being close to Rick. Thank you, Chief Justice, and council members. Justice Miller sends his regrets about not being able to attend the hearing today or the meeting today. He serves as chair of the Audit Working Group. He asked me to report on the group's progress in his stead. As you know, last month the Judicial Council received a report from the State Auditor which questioned the council's fiscal and operational decisionmaking. The Chief Justice stated that once she received that report, that it actually serves as an important tool to further facilitate the ongoing self-assessment within the branch, which obviously she considers to be the duty of all public officials. On the same day that we received that report, the Chief established the Audit Working Group, as stated, chaired by Justice Miller. The purpose was to develop a work plan to respond to the audit findings. Thank you. I think that it's really important to look at the composition of the Audit Working Group because I think the appointments point out how the Chief values the participatory, inclusive, and deliberative process in decisionmaking for this council and for the branch as a whole. She appointed Judges Charlie Wachob and Brian McCabe, both members of this council, who were the chairs of the Strategic Evaluation Committee. The first audit of Judicial Council staff was performed based on their good work. They obviously are very capable of speaking for themselves, but they have shared with us that the work that the SEC completed is covered by much of the same ground as that of the State Auditor. In addition to these two judges, she also wanted to assure that the trial court was represented in the Audit Working Group. In that regard, she appointed Mary Beth Todd, the chair of the Court Executives Advisory Committee. She appointed Judge Laurie Earl,

the chair of the Trial Court Budget Advisory committee, and she appointed myself, as I serve as the chair of the Trial Court Presiding Judges Advisory Committee. The audit addresses Judicial Council operations and spending as it relates to the trial courts. The services that the Judicial Council staff members provide to the trial courts are a very important and significant element of their work. However, they also support us, the Judicial Council. They also support all of the Courts of Appeal. So to make sure that all of these voices—we had voices within the group to represent all of these areas—she appointed Justice Miller as well as Justice James Humes of the First District Court of Appeal. The audit oversight work met within the first week of our appointment. And we've been meeting I think at least weekly, sometimes a couple times a week, since that time. And I will say that our conversations are robust, diverse, challenging, inclusive, and most of all, productive. Our task is to oversee for the most part the initial 60-day response due to the State Auditor, which is actually due on March 7. The report that you'll hear in a moment from Mr. Hoshino is an interim report on our progress. At the first meeting of the group, we studied the Auditor's recommendations, and we actually came up with three overarching assignments. First, we asked the Administrative Director, Martin Hoshino, to look at the pay and benefit issues. We asked Judge Earl to review issues related to the local versus state funding. She's working with the Trial Court Budget Advisory Committee on that. We also asked Justice Miller to have the Executive and Planning Committee review the council's directives, which were based on the SEC recommendations. Today's interim report is going to focus on the Administrative Director's responsibilities. Before I turn it over to you, Martin, I just want to add and let you all know that this Audit Working Group has the utmost, respect, confidence in your abilities, Martin, in your experience as a government administrator. You have been candid, thoughtful, and decisive through this process in responding to the audit recommendations. You've also kept public-service responsibility and good business practices in the forefront during this process. Martin, thank you for your work. I turn it over to you now.

>> Thank you, Judge Slough, Chief, members. I also want to, before getting into some of the details of some of the early actions we've been able to take, to thank the staff who in addition to all the other duties and responsibilities they've had, had to drill down on some information, some analysis, as well as respond to a lot of the additional information requests that the front office placed on them in order to get to a place of what I would call sufficient analysis or sufficient information to justify an initial set of actions and decisions, which I will catalog for you in a moment. The Audit Oversight Work Group as well as our team really has been focusing on what we refer to as chapter 1, that's been the heaviest part of our work. The top-line conclusion at least in this status report for us is that we believe that we have been able to either fully or substantially complete 4 of the 14 recommendations that were assigned to us. I say this as in our opinion because by process, information that we produce for the 60-day report that Judge Slough alluded to will now move to the State Auditor's Office at the 60-day mark, and the State Auditor will render their professional opinion about whether things are substantially or partially completed. This is our conclusion and our opinion of where we are at this point in time. I would also note some of this information could change between the time you are hearing it today as well as March 7 because if you remember, at the first report's interval, which was last month, we had told or advised folks we thought we would be reporting it in gates of information and during

different council meetings or Leg. hearings, wherever those opportunities present themselves and that we would be more real-time or more rolling in the production of the information of our progress in response to the audit. I want to make clear of those 4 of 14 recommendations, 1 of those regulations has two subparts to it and we completed both of those items. Another 1 of those recommendations has five subparts and we conclude we have substantially completed four of the five subparts. I spent some time parsing it out like this because I neither want to overstate our progress to date, nor do I want to understate it. The 3 additional recommendations that are there are in essence assigned to the Legislature. And so you may have heard the number that there are 17 recommendations in total, so we are not responding directly to those, which is why we use the number 14. Again much of the emphasis of the past six weeks has been on the recommendations that are in chapter 1 and two. Judge Slough has alluded to chapter 1 focusing heavily on pay and benefits. Chapter 2 is the responsibilities that are landing more squarely with Judge Earl and her particular team. Chapters 3 and 4, which we will not be talking much about today, are the things by reminder that are broader in terms of organizational change or they are broader in terms of accounting practices and budgeting practices and the like. Those are the things I have described before that are bigger, wider, that require more evaluation, more analysis and the like, and that some of the things are actually dependent on one another, where you've got to do one thing before you can do another, such as if you are going to survey the trial courts and the appellate courts for level of services, that you can align your organization so that you can develop performance measures. Some of these things will naturally take more time. We are busy putting together an action item implementation schedule for those things that we may sense and then trying to put ranges of time and attach that to that so that we can continue to report on what you might be able to expect when in terms of our progress. We are— I'm a bit reserved on all of that because I want to make sure once we get to a stage where we can actually share these kinds of kinds of milestones and the time frames we think we can accomplish, that is actually a credible schedule that you can count on. So I'm reserving a little bit of time working with the team to make sure we can actually do the things we say we're going to do when we can do them. So in terms of some of the specific items, sufficient analysis was available to take the following actions. I'm going to actually in a rote manner go through the actual recommendation from the State Auditor for about seven items as well as describe the action that we have taken or are about to take on it. I will frame the recommendation more succinctly so it is not a verbatim reading of the actual recommendation from the auditor and I want to be clear about that. The first recommendation is that we should be adopting procedures that require a regular and thorough review of the AOC's compensation practices that includes the job duties, analysis, and that aligns with the requirements of the position and that the review should include comparable executive branch salaries. The status for that is that—what we've talked about before and that you are aware of—there's a classification and compensation study that has already been under way as a result of the SEC directives. Nevertheless for the part of the recommendation that is about adopting procedures to make sure that you are doing those things, those procedures are being modified consistent with the frequency that we see in other governmental agencies with respect to managing and checking in on your compensation structure and processes. The next item is a recommendation that we cease paying for the employee's share of retirement contributions. So effective July 1 of this year, 2015, this benefit will be eliminated, and all staff that were

identified in the report will be required to pay their share of the employee's retirement cost. The third item is that we mirror the executive branch's practices for leave buyback. This is when you get to the end of a fiscal year, you realize in your budget there are sums of money, you make decisions about where to put it and sometimes employers across the state, in all branches in all places if they have the capacity will offer a leave buyback program for their employees. For our action on this item, we have decided to suspend the Judicial Council leave buyback program for the next two fiscal years. So that is this year and next year. Then when we consider reinstating this program, we'll review all the programs that are currently in play or in practice or being offered by executive branch entities, trial courts, and like entities that are contemporaneous with our particular operating environment. The next one is to ensure employees are paid appropriately. The AOC should follow its policy to periodically verify that salary differentials are based on an employee's actual work location. So we have done the work of correcting and reconciling the pay for the five employees that were identified in the report. We will be conducting quarterly reconciliations of each employee's primary work location to assure that any issues identified in the future are rectified in a timely and appropriate manner. The next item that we should follow—I'm number five here—follow the AOC's policies and procedures limiting the period of time it can employ temporary workers, and develop a similar policy to limit the use of contractors to a reasonable period of time but no more than one year. So the AOC policy in this regard has now been amended to include that contractors may not exceed one year in duration unless preapproved by myself or by the Chief Administrative Officer. To ensure that the council has adequate information on this, we will also create an annual reporting mechanism to the Judicial Council for any exceptions to this particular rule. The next item is number six, which is to cease reimbursing its office directors for parking at their headquarters by adopting the executive branch's parking reimbursement policies. By way of information, our office directors are provided up to \$230 monthly stipend to offset their cost of paid parking. It's important for you to know that not all directors receive the stipend on a monthly basis. Some only request it on an as-needed basis. Nevertheless effective July 1 of this year, 2015, the benefit will be eliminated for the office directors, and they will begin paying their parking costs. The last item is number seven regarding fleet vehicles. The audit report had identified that the Judicial Council had 66 vehicles in its fleet and want the council to note that 45 of those vehicles are assigned to staff in the Real Estate and Facilities Management and Capital Program offices. This is an office that is serving and supporting the maintenance of facilities of over 500 courthouses in all 58 counties. I'm naturally trying to manage your expectations that early on we can see that a big chunk of these vehicles are for what appears to be at this point in time a legitimate business purpose. However, and again our early first review of this in the six weeks since the audit, we've been able to identify 22 vehicles that we are comfortable eliminating based on the General Services—Department of General Services—policies regarding fleet vehicles and vehicle mileage that was driven in the year 2014. So that represents about one third of our fleet. Similarly the audit recommends and we now are developing a cost-benefit criteria and an internal control where we will be able to now have a criteria, we will apply it retroactively to the balance of the vehicles—the other two thirds of the 44 that remain—to make sure that they meet the criteria and the policies and procedures that we actually developed in this regard, and similarly we will establish an internal control where there is one location and one decision point for the justification and

where this criterion and analysis will be applied rather than leaving it to the discretion of the different programs or divisions that are operating here. With the balance of the remaining recommendations we continue to evaluate them, to analyze them, and as I alluded to earlier trying to put a reasonable schedule of when those things can be done and when the future reporting intervals that the membership be attuned to are the 60-day report, which is due March 7 that Judge Slough alluded to as well as the upcoming April Judicial Council meeting, and that's about as far into the future we can project and see for the next set of reports. With that, that concludes my report.

>> Thank you, Martin and Judge Slough.

>> One question about one of the items. I was curious what the rationale was for suspending the vacation buyback program for two years and essentially acceding to the State Auditor on that particular point because I'm aware of about a 24-page written report from the independent Legislative Analyst's Office that recommends vacation buybacks as a prudent management tool for managing unfunded leave balances. And I know in the case of the Supreme Court it's been very successful. At the state appellate court entities, leave balances spiraled very high with furloughs because people were having to use their furlough days. We had about 20 or 25 employees approaching their leave maximums at the end of the calendar year. I did a vacation buyback in this past year. We were down to 4. So I just wondered—wonder—whether we ought to be acceding to them on that point. It seems to me we have independent analysis by the Legislative Analyst's Office that, unlike other state entities, which don't enforce their leave caps, we're actually acting quite responsibly.

>> So my response to that is I don't characterize it as acceding. The suspension is for the period of time to actually properly analyze it. I agree one side of the debate is that when you can do this, you should do this. It is a sound management practice because you are essentially when doing leave buyback or sell back, whatever you want to call it, you are in fact reducing a future unfunded liability that gets pushed off into the future. The executive branch candidly doesn't do it as often because its budgets are a little bit tighter. The other side of the argument and the question is that if you are in a condition where you are doing leave buyback every single year as a particular department, entity, or organization, and you're doing it again consecutive three, four, five years, it brings on the table the question, Are you in fact over-budgeted? Because that's technically not what that money is funded for and what its purpose is. So we have done this in a series of years. I don't know the actual amount of the number of years or whether each year was 20 hours or 60 or 80. I've seen some of the numbers flying around but we have to actually look at that to see if that is a budget item that belongs properly categorized somewhere else and analyze that variation. The truth is the distance between here and end of fiscal year is an easier call to make. We also are having some budgetary challenges that are documented that you're going to talk about a little bit today in terms of some funds have deficits and some don't. So I can't see the wisdom of recommending, at least certainly in this fiscal year, that we do something like that especially in the environment that we are dealing with. That was an easier part of the decision at least for me to recommend—to hear and to make. The second part is looking into the

current fiscal year. Seems kind of logical, until we figure out a little bit more about how this budget works, that the two-year interval seemed to be the right amount of—two fiscal years seemed to be the right amount to stop and pause, finish the analysis, and then come back and also analyze it in the context of what is going on in terms of the financial health of the judicial branch as well as the financial health of the State at large and what are the other departments and everybody else doing? I hope that helps unpack the logic a little bit more for you.

>> That's very helpful. Thank you.

>> Chief, council, our next step will be to sit with Executive and Planning Committee when it reviews the council directives that were based on the SEC recommendations. I would really be remiss if I didn't say two final things. One, we couldn't do the work we do on this committee you've charged us to do without the help of staff. They've been extremely helpful. And I very much appreciate the work you're doing on top of everything else. Second, as it relates to this council, by listening to Martin's update and interim report as well as his response to Mr. McGuire's question, we really should be—you really should be commended for hiring him as our Administrative Director. We are in very good hands. Thank you, Chief.

>> Thank you. I concur on the comments, all of the comments, made. I'm greatly pleased by first of all the Audit Task Force members who agreed to serve on the Audit Task Force on such short notice. When I receive a thank you with a question mark, I know that the member who has sent that to me understands the gravity and the responsibility and the need. So I appreciate that because this is on top of all of the other work that you are currently all doing for the branch. And this has a long-term impact for us. I'm greatly pleased by the process thus far and the report getting ready for March 7. I know these were not easy decisions at all. I know there's been a great deal of discussion. So with lots of gratitude here, thank you. I concur in the room about Martin thus far. Thank you.

>> Next on our agenda, I am excited and pleased to introduce someone you all know, Justice Cuéllar, who has embraced his new role as chair of Implementation Task Force regarding language access. He has embraced this with his diplomacy, his passion, his scholarship, and his intellect. And I welcome you here, Justice Cuéllar.

>> [Applause]

>> Since you were kind enough to give me a hand before even started speaking, maybe I shouldn't say anything.

>> [Laughter]

>> Thank you for the chance to speak today. It's a particular delight to appear at the swearing in of Senator Jackson at the Judicial Council, who is a friend and whose career I have followed for many years. Good afternoon. [Foreign language.] Buenos tardes. These are some of the languages, along with American sign language and many others, that Californians use every day

and so must we. It is an honor to appear before you as the chair of the Language Access Implementation Task Force. My only concern is that the acronym that results from this name spells *LAIT*.

>> [Laughter]

>> I hope that working together we will be early, or at least on time. I'm grateful to the Chief for asking me to play this role and for giving me at least a couple of weeks to get used to being a Justice on the Supreme Court before doing so. I thank Justice Rivera and Judge Manuel Covarrubias for their tireless dedication and to the Joint Working Group members, staff, and all the people throughout the state who participated in working on the strategic plan.

Acknowledging both your long agenda and my short tenure on the branch, my remarks are going to be brief today. My goals are just three: to review the context for our Implementation Task Force, to discuss some of our next steps, and to listen to your input. The context is defined by the size and scope of California. That's 164,000 square miles and 39 million people. Of those 39 million people, almost 20 percent of California's population, as you've heard, are limited-English-proficiency individuals. That number constitutes nearly 30 percent of the total for the entire United States—almost as big as the LEP population of New York, Florida, and Texas combined. That population is growing at a staggering rate between 1990 and 2010. California limited English population grew 56 percent. Over the next five years it will grow even larger. As is true of many Californians, I grew up with my neighbors, classmates, and family members as part of this population. These facts underscore the importance of the strategic plan you've just approved. Thank you for that. Through the experience of our interpreters, through smart organization, judicious use of technology were appropriate, we can help our courts respond more accurately and thoroughly to the needs of millions of Californians. This plan also dovetails with important legislative changes in AB 1657 allowing the branch to provide interpreters in a broader range of proceedings. But California's size and geographic diversity also force us to bear in mind something else: our court has sustained over \$1 billion in funding cuts over the last few years. From the Stanley Mosk Courthouse in Los Angeles to the San Joaquin Courthouse in Stockton and everywhere in between, our courts are just beginning to recover and to rebuild. What we must do now is to ensure that we strengthen both our branch as a whole as well as its capacity to enable language access. Language access is access to justice. And access to justice is the core of our mission. Yet that mission depends on both access as well as justice. So we must couple this plan's implementation with a robust concern for the capacity and strength of all our courts. Already we are laying the foundation for this one. Judge Covarrubias, realizing that no good deed goes unpunished in this branch, has agreed to be my vice-chair. I thank him for that. I'm grateful for his wisdom and willingness to stay engaged. In the next few days you'll see a task force named to bring experience and diversity to this venture. Judges, CEOs, interpreters, and representatives from the community will join us. Where appropriate, we'll organize into subcommittees that can help us move as quickly and deliberately as possible. To make sure we build on what works, we'll need to learn more about existing practices, doing so in close partnership with our trial courts and their CEOs. We'll also work to forge an outreach plan appropriate for this stage of the work, which is about realities of implementation because the

goals have already been set in the strategic plan. These realities will call on us to be mindful of scarce resources and time but also of the window of opportunity we have. People are paying attention to this issue. We have to forge ahead in making the strategic plan a reality for millions of Californians. As we take on these tasks, our success will depend on certain core principles. We must implement this plan in a manner that unites us instead of dwelling on what issues might divide us. The joint working group valued engagement with stakeholders. So will we. We must find the resources to make this plan real but in a way that supports the case for funding the courts as a whole. That's the balance we need to maintain whether we're working to provide interpreters in civil matters or finding ways of providing direct health for our courts to engage with and implement some of the recommendations in phase one of the strategic plan. We must respect the diversity, creativity, and experience of our 58 counties and their trial courts, making sure some of the initiatives and discretion stay at the local level, where it belongs even as we work together to implement standards of excellence that will make sense across our entire state. We must train our attention on the most critical implementation questions, such as how to calculate the impact of increased demand for interpreter services in different places, how to specify the technology needed to make remote interpreting possible, where it makes sense. All this will not happen in 100 days or even 1,000 days. Alexander Hamilton once said that, and I quote, "Experience is the oracle of truth, and where its responses are unequivocal, they ought to be conclusive." Clearly he was talking about language access. Our task now is acting on unequivocal need but doing so with the experience of a full range of needs that exist in trial courts throughout the state as they recover from past challenges and face new ones. With this balance we'll do our best to achieve the kind of deep commitment that stays in place for years. But we start in earnest right now knowing that we have your support for the strategic plan and eager for your feedback today. Thank you.

>> Thank you, Justice Cuéllar. We are inspired and know we are in good hands. Thank you.

>> [Applause]

>> Thank you. We know we will hear more from you later. Thank you. Next on our agenda is item I. This is an action item. This is the Trial Court Trust Fund Allocation: 2 Percent State-Level Reserve. We welcome Presiding Judge Marsha Slough, cochair of the 2 Percent Funding Request Review Subcommittee; Marybeth Todd, cochair of the 2 Percent Funding Request Review Subcommittee; Mr. Rick Feldstein, Court Executive Officer, Superior Court of Napa County; and Mr. Zlatko Theodorovic, Judicial Council Finance. Welcome. Thank you. These are materials in your binder.

>> Thank you, Chief and council. Is this on? Good? You can tell now I feel more comfortable sitting next to Zlatko, as long as I have Rick close by. As many of you know, the 2 percent funding is an amount of money that is withheld from the trial court's allocations every year. The purpose of that withholding of the allocation is to provide a resource for courts that should have an emergent or urgent need during the course of the year. The 2 Percent Subcommittee of the Budget Advisory Committee is represented by presiding judges and CEOs whose charge is to evaluate a trial court's request for emergency funds. You may recall that this council not too long

ago, several months ago, heard a request for three courts. At that time the committee was more of an ad hoc committee. I think it's a very positive move to have this as a standing committee. As such our meetings are open to the public. This committee was—received a request from Napa. We held a public meeting regarding the request. The request arose out of the earthquake that occurred in August. You may all recall it was just our last Judicial Council meeting that I believe it was Judge Rosenberg presented his liaison report on Napa and we saw photographs of the structural damage that occurred as a result of that. As a result of that structural damage, it hit an already financially struggling court. So we met as a group, Marybeth, myself, I believe Kim Turner. You can speak as to who other was present. Rick, though he is a member of the subcommittee, did not vote given the request related to his court.

>> Thank you, Judge Slough. In addition to the members you mentioned, I think we also had Mike Roddy and Judge Tom Borris from Orange County. Mike Roddy's from San Diego. Also a member of the committee is Judge Conklin, but I think he wasn't able to make the call. So when a request is submitted, there's an application process required. And the court is required to submit quite a bit of information. Good job, Rick. I understand you had to do it pretty quickly. In that information, we receive the actual application. We receive three years of quarterly financial statements, current-year and projected subsequent-year revenue and expenditure report, information on employee compensation practices in the previous few years, and statement of consequences if the request is not funded. The committee reviewed the request, and during the meeting, we did ask Rick Feldstein some questions related to the request. Some of those things were just looking—are there other monies that the court might be able to tap into to deal with the issue on their own? Some of the questions—items we looked at—were the court had a significant increase in professional services projected for this year. That's related to the new Tyler case management system they will be moving too. Of course, those contracts were entered into before the earthquake. You need to plan your earthquakes a little better next time. [Laughter] We also took a look at the itemized detail of the expenditures they incurred related to the earthquake to ensure they looked like they were appropriate and tied to the earthquake damage. One of the items we asked about were increased bandwidth charges. That wasn't readily apparent to the members as to why it would increase the need for bandwidth. And it was explained that they had to move four courtrooms very quickly. One courtroom they had to use was a juvenile courtroom that was used sporadically. So bandwidth wasn't a big issue when they were only processing one case type in that courtroom on a sporadic basis. But now it was a fully functioning courtroom for all case types, and they needed access to information—much more information and much more quickly. So that seemed to be a reasonable request. All in all, the other items were storage costs. It does make sense when you've got a courthouse in disrepair and in the midst of being repaired you've got to move everything out, store it, and the estimate is approximately two years. They will be re-storing in phases but all told it would be approximately two years. All in all, the committee felt that it definitely met the criteria as an emergency: unanticipated expenses. It appeared that the court's budget has been—and no reason to believe it wouldn't continue to be—managed responsibly. The request was put forward as a loan in anticipation of a FEMA application that will be put forward. I believe you packaged that with your county and if they are successful in receiving the funding under FEMA, all or some portion, would be returned to the 2

percent reserve fund. With all of that taken into consideration, the working group committee did vote to approve the request. And I think, Zlatko, you were going to present next, just kind of the process? Did we cover it all?

>> Your presentation has made my PowerPoint pretty redundant. And I think that's what is the improvement in the process was having the review committee represent the issues. We as staff do our best but there are going to be insights and issues that only PJs and CEOs will be able to offer, and they will bring this consistent review. Obviously, staff would do the same but it's a high standard, and now the trials courts in their submissions understand it's not just the staff review but also a review from their peers, which is important. Essentially everything has been described, and if there's anything Rick Feldstein would like to add—it's unique in terms of the FEMA payback. So that's a good opportunity, but we have to provide the resources the committee felt were necessary given the circumstances of the earthquake and look forward to FEMA reimbursement.

>> Thank you very much. As Marybeth said, we have submitted our requests or are in the process of submitting our requests to FEMA. Some of those requests have been submitted. Some are still in development. We work very closely with the California Department of Emergency Services. We provide the information to them, they write the request, they review it, they give us feedback on how likely FEMA is to approve it and how it should be packaged. They've been very positive in terms of the types of requests that we are making. We're very much hoping we will fully be reimbursed for all of these costs, in which case we certainly would reimburse the fund. And so I appreciate your consideration.

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

>> I just had a question and my question is not intended to suggest I'm in any way opposed to this recommendation, but reflecting back over a number of years on the council now, we have occasionally—I remember San Francisco Superior came to us for additional funding and I believe there have been other courts. I don't remember the details. I think we have routinely, when we have agreed to the emergency funding, made it a loan to the court. And is this—it sounds to me like this is not a loan. If FEMA reimburses, obviously the money, the money will be given back, for want of a better term, but if FEMA does not come through for some reason or another, this is not a loan. Is that correct?

>> Right. We did look at this as unanticipated expense. Couldn't be budgeted for or foreseen. It's unlikely the court would—the court could make it up at some point, but it didn't seem—the purpose of the one-time funding request: it met all of that criteria. It's an unanticipated expense. If we were doing budgets based on what we knew courts were going to have happen in a year, it would have been funded. But there's no way to know that it would occur. And to ask the courts to have to payback for something like that would short them in other areas. With respect to Napa, they are already on shortened work weeks. They are closed every Friday afternoon. So the employees are all on a reduced work schedule. There was no way for them to make it up without the burden being borne by the employees given that a substantial portion of their budget.

>> Thanks for that clarification. I'm entirely in favor of the recommendation. I just wanted to make sure we're remaining consistent in our application of our policies and it sounds like we are doing that. Thank you.

>> Judge Rosenberg, then Judge Brandlin.

>> Thank you, Chief. We have a lot of tough decisions at the council. This is I think an easy one. This is precisely the kind of issue that this particular fund was meant to serve. And in addition, we get the possible benefit of the FEMA funding, which might result in a reimbursement. So if it's appropriate, I'm happy to move the subcommittee recommendation.

>> I will second it.

>> Thank you, Judge Tangeman.

>> I just have a few questions and maybe Zlatko can help me out here because I'm not a budget person. That's why I didn't volunteer to be on that committee or subcommittee. I'm a little concerned about funding streams. There's no question this is a worthy request and it should be granted in some form. The question deals with whether or not, for instance, the facilities modifications fund would be appropriate for this particular use, whether or not that was considered or eligible for that, rather than the 2 percent fund.

>> Costs are operational. There's facility implications that caused operational choices that need to be made. So from our perspective we think it is an appropriate use of this fund for that purpose.

>> The other is just an observation and that is the event that caused the need for the relocation was an earthquake—something that never could have been predicted. But I can envision in the future—and I'm concerned about precedent—in the future, that there may be needs for the courts to relocate because of burst water pipes, boilers, fires, whatever it might be, and whether or not this would be creating a precedent for the 2 percent fund for future relocation costs for the courts.

>> If I will briefly speak to that I think that's a really important point. And I think that speaks to the importance of making this a standing committee so you get consistency, so you get constancy in your evaluation, so that we do make sure that all of the trial courts who may end up in a similar situated circumstance, have—their issue and request is thoroughly vetted, evaluated not only by presiding judges but also by the CEOs. I think the way the committee is set up will help to assure that for lack of a better term the floodgates aren't opened inappropriately.

>> Seeing no other hands raised, there's been a motion and seconded. All in favor of the recommendation on page 2 of your materials please say aye. Any opposed? Motion carries. Recommendation passes. Thank you.

>> On behalf of the judges of superior court, I'd like to say thank you. I really appreciate your support.

>> No more earthquakes.

>> Good luck with that.

>> Going to stand; two things. We are going to have a working lunch here around the table. And so we're going to recess for 15 minutes for you to get your lunch and come back in and have the panel set up for our item J.

>> [Meeting is in recess.]

>> This is item J; it is an action item. Technology: Programmatic and Staffing Changes to Trial Court Programs. We welcome Judge Laurie Earl, chair of the Judicial Council Trial Court Budget Advisory Committee; Judge James Herman, chair of the Judicial Council Technology Committee; Mr. Rob Oyung, Chief Information Officer, Superior Court of Santa Clara County; and Zlatko Theodorovic, Judicial Council Finance. This is an action item. Welcome.

>> Thank you, Chief. The context of this joint recommendation is the deficit balance next fiscal of about \$12 million in the IMF, the Improvement and Modernization Fund. About half of the budget supports technical services to the trial courts. So—a little bit out of breath because I just came from downstairs.

>> [Laughter]

>> A quick run. Anyway the Council Technology Committee and Trial Court Budget Advisory Committee jointly recommend the Judicial Council approve changes to a number of trial court-related statewide technology programs that would achieve short-term, medium-term, and long-term savings in the State Trial Court Improvement and Modernization Fund; that the council's Information Technology Office consider reducing as many external contractors as possible which aligns with the audit; and that the council consider creating a working group or designating an existing committee to focus on information technology efficiencies and cost-savings measures for smaller courts. I do want to emphasize that although this is a joint recommendation, that the work was done by Trial Court Budget Advisory Committee and by a work stream working group that Mr. Oyung led and involved input from trial courts and CIOs and CEOs from all over the state. So it's really a grassroots look at the IMF fund and particularly technology issues and services. With that I would like to turn it over to Judge Earl.

>> Thank you, Judge Herman. As Judge Herman said, we bring to you some recommended statewide trial court technology programmatic and staffing changes in an effort to reduce technology expenditures in the State Trial Court Improvement and Modernization Fund. The projected expenditure for the IMF, or Improvement and Modernization Fund, in fiscal year 2015–2016 is approximately \$72 million, as is reflected in Attachment 1 to our report. However, a September 2014 review by the Trial Court Budget Advisory Committee of the fund condition for the IMF indicated a projected deficit of approximately \$12 million. This includes an estimated funding reduction in overall funding of approximately \$6 million for the next fiscal

year compared to the previous fiscal year. As you can see in Attachment 2, IT expenditures account for almost 50 percent of all IMF expenditures. Thus as Judge Herman indicated, he and I established a joint working group of the Trial Court Budget Advisory Committee and the Judicial Council Technology Committee to identify options for reducing IMF-funded IT expenditures. The working group analyzed each of the programs listed on Attachment 2, with the exception of the interim case management systems. These include CCMS V2 and V3 and Sustained Justice Edition case management systems. We did look at those programs—we did not look at those programs as we knew that the Judicial Council Technology Committee was currently engaged in evaluating cost-saving measures related to the programs. We did not want to duplicate efforts. A brief description of each of these programs can be found in Attachment 3. In evaluating each of these programs, our objective was to identify needs and priorities of the trial courts and determine whether and how costs for these programs could be reduced. The working group provides recommendations in the form of proposed actions as reflected on Attachment 4, and we provide a time frame within which to implement these actions, which is included—I think it was a handout. I apologize, it neglected to make the report, but it's a handout that says Action Roadmap. In the short term, these actions are projected to save approximately \$1 million. I recognize with the \$12 million deficit, that is mere pennies at this point. I should stress to you, this does not at all mean that we're done. In March, March 10 and 11, a two-day meeting of our Revenue and Expenditure Subcommittee, we'll review line by line all of the programs funded IMF and the Trial Court Trust Fund. I need to bring to you additional recommendations on how to reduce expenditures from the IMF fund. That will include another look at technology. In anticipation of that, a survey went out to all of the trial court presiding judges and court CEOs. It went out earlier this week. That was sent out and collaboratively worked on by Judge Slough, Mary Beth Todd, and Judicial Council staff to try to identify of all the programs that are funded from the IMF, which ones the trial courts use the most, which ones are priorities to them so that we can bring you informed decisions when we come back. Medium-term actions call for a review of the Oracle Enterprise license agreement that most if not all of the trial courts use and determine whether there is benefit to renegotiating that agreement. And in the long-term, it is anticipated that major savings can be achieved by reevaluating the CCTC data center services. You may recall this service is hosted in Phoenix, Arizona, and it provides not only services but data integration services. We would like to review all of the services that are hosted by the CCTC and costs associated with those services to see if they could be accomplished at less expensive costs. The tasks associated with the medium- and long-term actions are complex and will take between one to three years to complete. Thus we recommend these projects begin immediately in order to realize potential savings in the IMF. Thus our first recommendation is that you direct the Judicial Council Technology Committee to oversee the implementation of these proposed actions in the timeline that's outlined on this Action Roadmap. In the working group analysis, we identified additionally the opportunity to reduce costs by reducing external contractors. It was discovered that the IMF IT personnel costs represent about 18 percent of the total cost of the four most expensive IT programs. There is an equal number of permanent staff compared to contracted staff assigned to these programs. Of course the cost of the contracted staff is about 60 percent higher than the cost of permanent staff. Contractors do perform a range of services not covered by existing staff. Our analysis indicates there is a potential savings of

approximately 35 percent if all these contractors were replaced with permanent staff. Therefore we recommend the consideration of the reduction of external contractors. And lastly in the courts of the working group's analysis, it was determined there is a need to provide IT support and consulting to some of the smaller trial courts. They do not have IT departments. Some of them don't have a single IT person on staff in their building. And they rely on sharing an IT person that might come to their court once a month or so. So we believe that there may be cost savings and efficiencies by creating a working group to work with them—a working group that includes some of our IT experts from the larger courts, from Judicial Council IT—to see if we can leverage the work that larger courts are able to do in helping the small courts. This would not necessarily reduce expenditures from the IMF, but it would assist the branch in the overall management of costs, and it is something I think that's been discussed before but really action has never been taken. I think we think it's time that we get together with the smaller courts and begin looking at ways that we can assist them. So our last recommendation is that you direct the creation of a working group or the designation of an existing advisory committee for such purpose, to begin seeing how we can assist the trial courts of smaller counties. I do have Rob Oyung with me who is here to answer technical questions. If you have any questions of any of us, we can take those at this time.

>> Now that I've got my breath back, I'd add that this last piece is an important piece because as we know, scale is one of the issues we face in terms of the needs of small courts, medium-sized courts, and larger courts. So that was an add-on in terms of the work and the analysis that was done, but I think it's an important piece for those small courts of that are simply under-resourced in terms of their IT programs, many of whom by the way, while a number of us mid-size, larger courts have been able to upgrade our case management systems to digital systems among the RFP responding vendors or other vendors, many of the small courts simply do not have the resources to be able to do that. We don't want them left out.

>> I can also add too as part of our work, Rob brought these recommendations to the court IT Managers Forum, which is a group of court IT experts from throughout the state, trial court experts. Debbie Norrie was a member of our working group and the CEO in Plumas, and she contacted each of the CEOs from the Sustained Justice Edition courts and discussed these recommendations with them as well, and they are desperately in favor of this working group.

>> A final point on both that as we will be coming back with recommendations relative to these B3 courts and we're also working with those Sustained Justice Edition courts that are on the tech center, that are supported by the text center, to proceed along the same lines. And finally I'd mention thank you to Mark Desmond and his staff. This working group and IT, our JC IC staff worked in collaboration on coming forward with this recommendation and staff supports the recommendation as well. So with that, any questions?

>> I think we have some questions. Judge McCabe and then Judge Stout?

>> Judge Earl, first you discussed having an analysis what's going to be performed looking at independent contractors, et cetera. Does that analysis include a cost-benefit analysis of actually

hiring employees for some of these courts, if not just for a court, regionally for some courts because maybe their IT needs wouldn't be sufficient and justifiable for a full-time employee but maybe a part-time, and so two or three courts could share in the cost of a full-time employee and then comparing that cost, both salary and benefits, to the salary? The reason I bring that up is I'm the liaison to the Madera court, the Madera court has an independent contracting service come down twice a week. However, their understanding is they could probably hire somebody at a cheaper cost. However, they recognize there are economies of scale involved because that contract is spread out over a number of courts. That's why I throw this out there. Is this going to be an inclusive analysis looking at whether or not they can get employed versus independent contractor, et cetera?

>> The analysis related to the contractors is really twofold. The first part is as a result of the investigation in terms of the evaluation of the IMF. The expenses for the contractors were really focused in on statewide programs. These were not contractors that were assigned to individual courts but it was contractors for the statewide program. Those were the ones Judge Earl had mentioned. So it does make a lot of sense to evaluate those to look at the opportunity to reduce costs for the statewide programs. However, the third recommendation in terms of looking at services for smaller courts will definitely include taking a look at critical items such as contractors for individual courts where they cannot afford individual staff, perhaps sharing resources. One idea was to take a look at some of the larger courts who have more resources and potentially have them work with some of the smaller courts. So the evaluation of the contractors is as I mentioned, twofold. One is to look at the statewide contractors and then the third recommendation around looking at opportunities for smaller courts will then address the needs of contractors at the local court.

>> The goal is to assure that there's IT coverage for all 58 counties in the future because obviously we're in the Information Age. We're all heading in that direction, maybe not today, but tomorrow or the day after, so IT only seems a natural need. I think it's going to be a must for every court to have folks at some point, maybe not on-site but at least regional to help courts. So that is a goal. That's where you're heading with that type of analysis?

>> Absolutely.

>> JC IT staff currently does support a number of the smaller courts, particularly the Sustained courts, that go through the tech center. Those courts' challenges are not only budgetary in terms of being able to afford IT managers within their own courts but it's also the remote courts in particular. There simply are not the subject-matter experts in IT that are available in their neighborhoods.

>> The last point is, is there going to be some type of follow-up mechanism so that you have an analysis that you'll do a periodic review to assure that you are still engaged in cost-benefit analysis on one hand, but on the other hand, the IT needs of the various entities are met? Is that on the radar as well? Because it just doesn't end once you've done it once. It's very dynamic, so you'd at least need some type of a policy in the future to continuously review those.

>> Are you talking about the needs of the trial courts, understanding the needs of the trial courts?

>> Yes. Option 3 dealing with the small courts and the trials courts. I'm honing in on that element to the exclusion of others.

>> You come from a small court?

>> I do. Although we are *midsized* now. But still recognizing that the analysis doesn't stop once you make it because it is dynamic. The needs change. Costs are variable. What they cost today may be completely different in three years from now. So is that part of the policy you're looking at as well, setting in place a mechanism for annual reviews or something so you know you're getting the best bang for your buck and, at the same time, needs are being met?

>> I think it would be helpful if this were a standing committee and it wasn't just a one-time group that looked at this and made recommendations but it was an ongoing review. I think that would be appropriate.

>> I would concur. Thank you. Last question.

>> I would agree with it as well.

>> Judge Stout, then Judge Brandlin?

>> Thank you. Coming from a small court that currently doesn't have an IT person on staff and facing incredible recruiting difficulties, presently, and also of course during that time having a server go down and not getting e-mail the last few days, I am acutely aware of this problem. I obviously strongly support the proposal and thank you very much for the consideration of moving forward with the creation of a working group or designation of another committee to focus. I know in particular on the information technology efficiencies and cost savings that can be focused on smaller courts. I appreciate that very much. I want to thank staff, too, on my personal local crisis. That staff has really stepped up to help us out, and I appreciate that very much. While I support the proposal, I'm always concerned about the CCPOR delay and wanting to get those protective orders online as many courts as possible. What's the prognosis if we know about the grant funding? Do we have any idea? To try to avoid that delay?

>> I'm not—I don't know exactly what the status is. I do know what this recommendation is all about, is restricting it to grant funding that's forthcoming. So to the extent we continue to get grants, which we did this fiscal and which we're getting next fiscal, we will expand the program. I think this year the council recalls—wasn't it three courts that we expanded the registry to on the grants? I think so. I think it came before the council.

>> Thanks, Curt Soderlund?

>> Right. Good. Three this year and then six more we're looking at for grant funding support. Again, not coming out of Trial Court Trust or IMF. It's grant-based.

>> Judge Buckley?

>> Rob can speak better to this than I, but at a very recent CIO meeting, and it was coincidentally in Los Angeles, but to show this is going to happen, the CIOs of the larger courts offered to send someone for two days to the smaller courts that were going to start Outlook. So it's there. I think leadership is within the CIOs, Rob included. I think that's going to happen and quite easily.

>> That's very good to hear.

>> I had a question on recommendation number 3. It may be directed to the two chairs, and that is, in terms of creating this work group or task force, is there a recommendation? I worry about the proliferation of task force work groups and I know especially with technology we can often, well we have in the past, we have too many tentacles. Is there a recommendation of where this work group or task force should reside? I ask you, Rob.

>> I think a recommendation for implementation purposes is to the JCTC but working in conjunction with the Budget Advisory, and perhaps CTAC is the appropriate place to place this as a potential work stream. Chief, you're absolutely right. This is a recommendation in concept and what has to be done is we have to analyze the ability of CTAC to take this on and in what order it would come in terms of what they've already got on their plate relative to the technology, to the IT plan. So whether we've got staff to be able to support it—everything we're doing now relative to the technology is first of all, here's the proposal to add to their annual work plan. Second, what's it going to cost in dollars and staff? Is it viable as far as those expenditures and staff time and money are concerned?

>> Assuming all recommendations are adopted, we'll hear back from your group as to the recommendation as to where the working group should reside?

>> I think it would be helpful for us to bring it back at the next meeting.

>> Thank you.

>> If there is no further discussion, I'll entertain a motion regarding recommendations 1, 2, and 3 on page 2 of your materials. Judge Nadler moves. Second by Judge So. Any further discussion? All in favor please say aye. Any opposed? Recommendations carry. Thank you.

>> Thank you, Chief, and thank you to the CIOs who continue to step up to the plate.

>> Absolutely. Couldn't do it without your input on the ground. Thank you.

>> Next on our agenda is item K. This is an action item. It's Trial Courts Recidivism Reduction Fund: the Court Grant Program. And these are the recommendations for awards. We welcome Mr. Curtis Child, Judicial Council Chief Operating Officer, and Ms. Shelley Curran, Judicial Council Criminal Justice Services.

>> Good afternoon, Chief and members. I just wanted to make a couple quick introductory remarks and then let Shelley talk about the specifics in the recommendations of the proposal. As you recall, the Legislature quite late in the game ultimately appropriated \$15 million for a recidivism reduction program. And Shelley and her team promptly—the day of the signing, I think—jumped on getting the proposal put together, worked with the courts and ultimately and procurement, and put together a great RFP, got it out quickly, and so we are now ready to move ahead with a set of recommendations on the allocations for those that submitted their proposal. So their team really had to do this in the face of Prop 47 popping up, Williams case coming up, and realignment still ongoing. The important thing, I think, was to ensure that we're getting out these dollars as quickly as possible to the selected pilots so that we can begin to assist in the recidivism reduction that the state is focused on. With that, Shelley, I'll let you walk through.

>> Thanks, Curt. Good afternoon, Chief and members of the council. We spoke with you briefly in October to give you an update on what we had been doing. We secured the feedback from Executive and Planning Committee in August about the process. And in order to avoid any potential conflict of interest, E&P charged Criminal Justice Services office to work on the development of the RFP, field questions from interested trial courts or other justice system partners, receive the actual proposals from the trial courts, score them, and then bring recommendations to the council for your ultimate consideration and approval. So that is the culmination of this process. In the development of the RFP, we solicited the input of outside state and national experts. We also worked with Criminal Law Advisory Committee, the Collaborative Justice Advisory Committee, the presiding judges and court executive officers to ask them about things that would be and should be included in a successful RFP. We took that information, developed the RFP, got it out to the courts on August 15. Courts responded to us on December 15. We received 38 different applications, and our funding proposal—recommendations to you for your consideration today—include funding 27 different court programs. In order to develop these recommendations for your consideration, we came up with policies to drive us in an effort to fund as many courts as possible and as geographically diverse as possible. We also received input from local justice system partners and statewide representatives, along with legislative staff in the Governor's office and Department of Finance to ensure we were meeting their vision as much as possible with the very limited amount of information that we received from them included in the budget bill. So to that end, when we developed our sets of recommendations for you, we suggested that courts that receive the minimum of 65 points as addressed in the RFP receive funding, that all courts that met that 65 threshold receive funding, but that we only fund one program in each court. So there were a couple of courts that did score above 65 in a couple of different program categories. Forgive me, the program categories, to remind you, were pretrial services, collaborative courts, and the court use of risk and needs assessment in pretrial sentencing. So to limit one program per court and then also to limit the grant amount to \$600,000. Included in RFP, we suggested that grant awards would typically be between \$300,000– and \$600,000. We encouraged courts to apply for more funds if they needed to, but based upon the volume of applications and the significant interest we received from the trial courts, our recommendations reflect limiting the grant amounts to just \$600,000. Our recommendations to you include—if you adopt them, it will end up funding 10 pretrial programs

throughout the state, 17 collaborative courts (and those 17 collaborative courts range from drug courts to vet courts to mental health courts), mandatory supervision courts (a very broad variety of different courts). The applications came from all over the state, courts of various sizes. Our recommendation includes funding of seven different Category One courts, the smallest courts. We developed four different categories of courts in order to consider them and that's based on the local supervised population as how we did that. It very closely reflects the size courts also. So that all worked out well. Six Category Two courts, 11 Category Three courts, and 3 Category Four courts are included in our recommendations. If the Judicial Council chooses to adopt the set of recommendations, there will be some money left over. That dollar amount is not yet set in stone because after we receive your approval, then we'll have to go back and work with some of the grantee courts in order to refine budgets. There are some things that were included—some are simple math errors— and then other things that might be some unallowable costs based on the Judicial Council contracting manual. So that dollar amount is not set in stone, but should you choose to go forward with this set of recommendations of funding those 27 court programs, we further recommend that any leftover dollars that I suspect will range between \$600,000 and \$650,000 be made available to the six trial courts for whom we did not recommend funding, allow them to come back and resubmit proposals for these programs, and then rank them and bring that back to the council for your consideration. I would love to do that in June in the spirit of continuing to get this money out. If there's any dollars left after that in this program, we'd recommend small planning and implementation, technical assistance grants for any trial courts that might be interested in developing a program that ultimately reduces adult offender recidivism. Make that available to the trial courts. And then finally one last request that we are making included in our memorandum to you is to provide council staff the ability to work or authorize council staff to work with grantee trial courts to move budgets from -- dollar amounts from one year to another. So for example, in the event that X court is not going to spend all of their year one money, provide us the ability to go back to the court and say okay, you can shift this money here. Any reallocation of funds from one court to another court, we would come back and seek council approval, but we request now permission to actually work with the courts from year to year as needed. Thank you.

>> I have a question. In terms of this work, I have respect for how quickly Judicial Council staff acted on this budget item, which came to light a little bit later in the budget process and then we realized this money existed, and as you described, with not a great roadmap of how to get it to the trial courts. And so I realize that with a meeting with Judicial Council and with direction from Judicial Council leadership, the topic came to the staff of the Judicial Council to find a way to make this work in a transparent and even fashion for all the courts, and that resulted in, as you indicated, consultation with state and national experts, the compilation of an RFP, notice to the courts, application processes, policies, categories. Is there anything about this fund that helped assist the Judicial Council staff in funding the extra effort that this took or is that something you were able to do?

>> No, Chief. I should have made that clear. The appropriation was for \$15 million. The Judicial Council was provided 5 percent of that \$15 million to conduct this work. So some money did come to council staff to do this.

>> Very helpful in terms how quickly this has been able to get out to the trial courts to begin recidivist programs. Any questions/comments? Judge Rosenberg.

>> A couple quick questions. First of all, how confident are you that all 58 trial courts got the word. Because this moved very fast.

>> I spoke with I think at least at one, if not two, of the Trial Court Presiding Judges meetings along with the Court Executive meetings. This was published in CNU, and I think there was significant public interest. And based upon the fact we did receive so many applications, I can never be 100 percent certain of course, but I am very confident that the vast majority if not all of the trial courts were aware of this.

>> All trial court CEOs and certainly all trial court presiding judges attend those meetings of the Trial Court Presiding Judges Advisory Committee and CEAC. But, secondly, why should this be opened to the six that you found not qualified, or not qualifying—for a second bite of the apple, as opposed to opening it up to all?

>> If the council wants to open it up for all, of course I think that's a council decision. In addition to speaking to the court executives and presiding judges, we also did send e-mails out to all of the PJs and all of the CEOs, so it was published in that way as well. Our recommendation was based upon the fact we know that those six courts are interested in this by having come forward at the beginning and saying they were interested in receiving these funds. They also have put in a significant amount of effort and energy into these programs. We wish that we could—that there were enough dollars to fund everyone of course. If the council wants us to go forward, I think the timeline will be a little bit tighter. That 90 days was tough for a lot of courts to be able to turn around and get it done in 90 days, but in the interest of being responsive to the trial courts, responsive to sisters of government, we wanted to get it out as quickly as possible. So I do think that if we opened it up to all the trial courts, it will make that timeline much longer. And the dollars do have to be spent by April 30, 2017. So it—timing-wise—it could be tougher.

>> Thank you. I'm not suggesting we do that. I'm just probing why you're making that recommendation.

>> One other piece of that, Judge, is in the conversations with other branches of government, they were very interested in getting as broad spectrum as we could get. So I think that's also part of the effort to make sure that we can get out, rather than just funding some additional grants, make it broader yet, still, that helps. That was ultimately their intent.

>> Judge Stout and Judge Weber?

>> Thank you very much for your outstanding work on this. I think it's really commendable. And it's appropriate, Chief, I'd move the proposal.

>> Thank you, Judge Stout. Judge Weber?

>> How did you come up with the \$600,000 funding limit as opposed to some type of percentage? I know you came up with a limit because you wanted to provide funding to as many courts as possible. But it seemed just putting a cap at \$600,000, some of the courts that may be larger courts then arbitrarily got a smaller allotment.

>> Many of the courts actually applied for that maximum \$600,000. So we did look at that and there wasn't as clean a way to do it mathematically, to come up with what exact percentage would bring it below. There were not that many courts that went above that \$600,000 request. Most courts were right around \$600,000. Probably four or five had requests between \$800,000 and \$1.1 million, but for the most part it was right around \$600,000 amount.

>> There's a motion and second by Judge So. Any further discussion/questions? Judge McCabe?

>> And I just want to make sure Attachment A is the full listing of the proposed awards?

>> Yes. I do want to point out we say approximate because again, Judge, to go back to that point where we are going to have to refine some of the budgets with some of the courts because of unallowable costs.

>> Noted. I will note that my court is listed and therefore I disclosed that and will recuse myself from any discussion or participation further.

>> Can we get a clarification? Do council members have to recuse themselves? I don't think so.

>> No, because you don't come here as a representative of your court. You come as a representative of experience but you're looking at statewide issues.

>> That's what I thought. Judge McCabe has never represented his court.

>> [Laughter]

>> Unfortunately my court may agree with you. I do that because it's the easy way out. As an advisory member I don't have a vote anyway so it's really—

>> [Laughter]

>> Touche.

>> Can I just make one really quick comment?

>> Thank you, Mary Beth.

>>I just wanted to say, I checked my e-mails and I did find where the presiding judges and the court executives, all of them, received not only initial RFP but reminders about the date. So it was well published.

>> That's good to know. Thank you. We have a motion and a second. I see no hands raised for further discussions. All in favor of the recommendations starting on page 1 and ending on page 2, four of those, please say aye. Any opposed? Motion carries. Thank you.

>> Next we have item C, which, as I remind you, came out of the consent agenda. It's now on the discussion agenda. This is the Judicial Branch Administration: Audit Report for Judicial Council Acceptance. This is an action item. We have appearing by phone Justice Huffman, who intended to appear by person but had another matter that detained him. I also believe we have Mr. Sean Metroka, Court Executive Officer, is expected to appear in person and address. Thank you, council. And I'd have everyone, also, just for those watching, listening, to state your name on the record please.

>> Good afternoon, Chief. This is John Judnik.

>> Members of the council, this is Richard Huffman. I'm the chair of the Advisory Committee on Financial Accountability and Efficiency. I would like to take just a moment of your time to discuss a couple of items before we get to the details of this particular audit.

>> Thank you. One moment, Justice Huffman. We'd like to have Robert introduce himself.

>> Thank you. My name is Robert Cabral. I'm an audit supervisor in Audit Services.

>> Thank you. Please go ahead, Justice Huffman.

>> He was the audit supervisor responsible for this audit.

>> Thank you.

>> Thank you, Chief. Sorry for talking over people. It's hard to see from here. We have -- three duties as it relates to audit reports. We review all of the audit reports for the judicial branch, including appellate courts, trial courts, and Judicial Council staff. Our task is to make a recommendation to the Judicial Council before the audit is actually accepted. Audits are confidential until they are accepted by the council, and then they are placed on the public website for public review. We tend to make recommendations to the council on issues that are systemic, problems and other issues that we think are important within audit reports. I must say the vast bulk of the audit reports that we review we sent to you on the consent agenda. Generally the issues remain within an identifiable range. By the time the audit is presented to us, they've been worked out with the trial court or the entity. And consent agenda is a fine. Once in a while, we find a report of that either because of the individual issues or combination of those present some questions that could result in diminished public confidence in the branch handling of its financial affairs. And with regard to this particular audit, that is Nevada County Superior Court, and we

reviewed it on February 4 at our closed meeting, and discussed it with the audit staff and concurred in the staff recommendation that this be presented on the discussion agenda. And I'll go through, very quickly, the individual reasons for this recommendation, but I want to say at the outset that in the processing of this case, I'm sorry, this audit through the question of where it fits on the agenda, at one point there was a suggestion that we might be putting these on discussion to either intimidate, embarrass, or coerce the trial courts. That's absolutely *not* the case and would probably be rather shocking for trial court executives and trial judges on the committee. We put these things up for the council's consideration because our experience is sometimes we have system problems, sometimes there's issues with the court that the council with its staff have been able to reach out to the court to provide assistance in some fashion and resolve these issues before they present greater problems. With regard to Nevada County, as you see from, I assume you have the PowerPoint, there's a relatively large number of issues for this, 182 issues. By the time we got to it, there was only 80 of those resolved. More of them probably have been, but presented an unusual problem for A&E. More particularly a number of the issues are in areas that we concur with audit staff propose a risk of loss exposure, cash collections, manual receipts, segregation of duties, and others that pose a risk that any auditor will find and the State Auditor would find it if they made a review. We also found there were a high number of repeat issues in the cash and banking transaction and accounts payable area. Of particular concern to the committee members was that part of the problems that the court, as it was related to us, has approached some of these issues, is that they are under-resourced, and I have no doubt that they are; they have confidence in their, staff and we understand that. But it appears they've made a risk assessment in saying we don't have the money to do these kinds of cash protection things, so we'll take the risk. And we thought this is an issue that the council may want to address. There may be ways to provide some assistance to the court or to assist them, but we think taking risks on cash losses, you don't know if you have a loss until it's already over. So I'm going to turn it over to audit staff to go through this particular report with you. And then we will at the end recommend you receive this audit and that you take such action as you deem necessary. We don't make recommendations as to what the council should do because we think that's within your area of expertise. So, John, whoever is going to speak?

>> Thank you, Justice Huffman. Good afternoon, Chief and council members. I'll have a very high-level overview, then I'll turn it over to Robert Cabral, who is the audit supervisor responsible for this audit, to get into some of the details. And then we'll have a couple minutes for Sean Metroka, the court exec, to provide a few comments. The Nevada Superior Court is a small court, six authorized judgeships, 1.6 SJOs. They have a long-tenured CEO. On the WAFM model, they're at cluster 2, which is close to neutral. They have 58 FTE with two in fiscal. The court has two locations with eight courtrooms in a \$6.8 million budget in the fiscal year that we reviewed. The overall management summary identified six significant issues: one is in the cash area, the control and oversight of handwritten receipts. That is, in the last 10 years, my highest risk area for the courts as reported annually to CEAC and the Trial Court PJ Advisory Committee. To the court's credit in this area in advance of what Rob will talk about, the court immediately corrected those issues going forward. The court also needs to strengthen cash-handling practices that we identified, improve their review of invoices and approval procedures

on those invoices. And to more accurately and consistently improve the statutorily required domestic violence fines and fees as the court is required to do. Now I'll turn it over to Robert Cabral.

>> Thank you, John. Good afternoon, Chief Justice and council members. As I said earlier, my name is Robert Cabral. I'm an audit supervisor with Audit Services. I supervised the audit of the Nevada Superior Court. The on-site audit team was led by Joe Azevedo, senior auditor. He was assisted with Ed Duran and Lorraine De Leon, auditors out of San Francisco. I want to first start by thanking Sean Metroka, the court executive officer of Nevada Superior Court, and his staff. He and his staff were cooperative throughout the audit and provided the information we requested in order to complete our work. During the later stages of the audit, Sean and I discussed over the phone some of the issues to make sure that we both understood the facts and the issues. And although we had agreed to disagree on one or two of the issues, I think that I wanted to make sure we were on the same page as far as understanding each other's points of view. Audit Services understands that most courts don't look forward to audits. Nevertheless, they're useful for the purpose of assisting court management and identifying areas where they may be able to improve court operations. An audit is like a checkup of fiscal and operational effectiveness and efficiency. They're kind of like going to the dentist's office. You don't really want to go but you know you need to go to ensure you can do all you can to keep your teeth healthy. Some dental office visits result in quick cleaning and a reminder to brush and floss daily. Some result in recommendations to get a small cavity fixed in order to avoid a bigger problem. Some visits are to take care of a tooth that has become a painful problem. Some visits identify other problems that are not obvious and not related to your teeth. My wife is a dental hygienist, works at a dental office. She has found on a few patients indications of cancerous growth that the patient did not even realize that existed. Well, audits are somewhat similar to a dental checkup in that they may be painful but are useful for management to identify potential areas of risk and areas where improvements can be made. Nevertheless, management is ultimately responsible for assessing risk and establishing an appropriate system of controls to mitigate and minimize the risk and ensure the mission of the organization is accomplished effectively and efficiently within available resources. With that said, I will now cover some of the issues of concern from the audit of the Superior Court of Nevada. First our review of the court system to track and monitor causes taken under submission found that it did not have an established process to review and monitor causes taken under submission. As a result, we found that one cause we reviewed was decided 92 days after being taken under submission. The court did acknowledge the weakness and implemented procedures right away to better track and review the submitted causes as required by rules of court. We also found that the court's accounting and financial reporting of financial transactions was not always correct. Because the court had not yet closed its books for the 13/14 fiscal year, we reviewed the prior fiscal year and informed the court of the accounting and reporting issues we found. As a result, the court was able to correct many of these accounting and reporting issues in its latest financial reporting for the fiscal year just ended, 13/14. As for manual receipts, like John said, that's a high-risk area. We found issues ranging from weak oversight of manual receipt books to missing manual receipts with no explanation as to what happened to them. The control and oversight of manual

receipts is a high-risk area, as other courts with weak oversight over manual receipts have had situations where staff issued manual receipts to customers and pocketed the cash and the problem didn't surface until months later. The court acknowledged its manual receipt issues and indicated taking action to strengthen the control and oversight over its manual receipts. We also found other issues in the cash-handling areas, for example, too many cashiers had the ability to reverse and adjust payment transactions in the case management system, including their own transactions; significant amounts of daily cash collections were not being promptly deposited in the bank in order to safeguard the cash; multiple cashiers shared the same cash drawer, making it difficult if not impossible to identify and hold any one cashier responsible for any cash shortage. The court acknowledges the risk but indicates accepting the risk due to a lack of sufficient resources. Also we found many segregation-of-duty issues, including individuals who can open mail, enter payments, and set up new accounts with little to no oversight, a lack of review and approval of payment transaction reversals, and a non-court employee who could reverse her own payment transactions without any review and approval by the court. During the daily closeout process, we found that end-of-day collections are not counted in the presence of another supervisor or employee and that the closeout and balancing reports are not signed to indicate supervisory oversight and verification of the closeout process. When cases go delinquent, including payment plans, we found they were not referred to its outside collection agent promptly, as required per court policy. Also DMV holds were not always placed on delinquent accounts to assist the court with its collection efforts. We also found no record is kept of when the vault combination was last changed or who knows the combination. Also, the combination is not changed when an employee with knowledge of combination is no longer employed by the court. At one court location, the combination to the keypad box containing the key to the safe had not been changed in eight years and nearly all of the staff knew the combination. In information security, information systems area, we noted user access control issues and although it was a business—did have a business continuity plan—it had not tested the plan to ensure its plan and backup recovery site functioned as expected. In our review of the banking and treasury area, we found the court does not fully reconcile its bail and civil trust accounts to its CMS. In the procurement area, we found the court did not always prepare purchase requisitions, did not always enter encumbrances in the fiscal system to reserve its fund balance, and did not update its authorization matrix to reflect managers and supervisors whom the court indicates were authorized to approve purchases. Also, purchases made with purchase cards were not always preapproved by somebody with the appropriate approval limits. Travel expenses were not paid using a purchase card that is designated just to pay for travel expenses. Some purchase card purchases were for snacks and supplies for nonsequestered jurors and gifts for children. That's a bad one. In the related Accounts Payable area, if some invoices did not indicate payment approval signatures before processing for payment, some invoices were signed *approved for payment* by individuals not authorized to approve invoices for payment, and some invoices were approved for payment by the same individual who made the purchase. Also, many of invoices were paid without matching the invoice to the terms of the procurement agreement or obtaining verification that acceptable goods or services were received. With one invoice, payment we reviewed exceeded the agreed-upon payment amount. The court also paid for unallowable grand jury expenses and juror parking. Finally, a few of the vendor addresses on the invoice did not

agree with the vendor address in the fiscal system. In our review of domestic violence fines and fees, we noted the court did not impose domestic violence fee when applicable or imposed the outdated PML. Also, some other fines and assessments were not made as required by statute. Now Sean Metroka, Court Executive Officer of Nevada Court, would like to comment.

>> Good afternoon, Chief and folks. After that it's hard to follow that act. I know Justice Huffman's summary, while it was likely prepared by the gentleman to my right, really paints a fairly grim picture, and I appreciate the opportunity to come here today to address all of you if for no other reason to make an attempt to assure you that we are not as messed up as we sound. All of the major items with one exception that our audit team has identified, we have corrected. And as of today, we've corrected, addressed 152 of 182 of those audit issues. We have 14 left that we're working on. The latest will be complete by the end of July of this year. There are 13 items on the audit report that we believe we have no ability to address, either authority or financial resources. For instance, we have no way to install intrusion-detection systems in our buildings. We have no way to install fire-suppression systems in our buildings. We have a lot of issues related to lack of resources, which every other court in this state faces. As it happens for us, we welcomed these gentlemen and their team to come to our court, because we have had a 25 percent reduction in staff over the last six years, as many courts have. We have had a significant turnover in our experienced staff. All of our operations supervisors and our accounting manager and many of our other leaders in our court have retired within the last year and a half. We also implemented a new case management system a little less than two years ago. And many of the issues that they rightfully cited in the report stemmed from our growing pains with that new system and trying to get it configured properly so that we comply with all the policies and we have appropriate accounting controls in place. The bottom line is we're not asleep at the switch. We have made some decisions in our court to apply the limited resources we receive to maintaining an acceptable level of access to justice in our county. And some of the things that have taken a decrease in support via our resources have been on the administrative side. We've cut 25 percent of our staff but we cut 50 percent of our accounting staff. We cut more than a third of our IT staff. We cut a third of our human resources staff. Our operations staff has endured a 10 percent cut. Our self-help centers were the last element, the last department in our court to receive any cut, and that was only in the fifth year of budget cuts, because we felt that their function was so important to ensuring access to justice in our county. We could certainly have made the decision to close our satellite court in Truckee. We would have dealt with a predictable outcry from the large portion of our county population that lives on the eastern side of the Sierras. But we would have been able to maintain all of the staff required to help us comply with all the policies and maintain appropriate financial controls had we done that. It would, however, have made a tremendous hit to our ability to provide access to justice for probably one fourth of our county's population. And I know other courts chose to do that with satellite courts. We chose not to. We still have every courtroom open in our county five days a week. Our public counters are open eight hours a day. We did, through this downturn, cut one hour a day in public counters. If we were to implement with our current facilities the one big thing that we haven't done, and that is separate change drawers for our clerks who accept payment, it would require us—this is not an exaggeration—it would require us to cut one hour a

day from our public counters—because we don't have a separate change drawers. Every clerk who takes payments would have to have an individual cash bag, which has to be balanced out at the end of the day by two people. I don't have enough people to do that with our current arrangement. So I realize I have probably taken more time than I should have. I want to assure you, we are on top of this. We are not actually surprised by the majority of this. That's why we welcomed these guys. We needed their help to help us to fix the problems we knew we had that came from this storm of all of these things this branch has endured over the last five or six years. We're on the upturn. So thank you for the opportunity to address you. And I'm sincere in my assurance that we are on top of this. And I will be quiet this point.

>> Thank you, Sean. I'd like to add, Sean's court is a small court, but many of these issues and many of the concerns and resource issues are exactly the same at other of our smaller courts. The resources that they have to enable them to keep their doors open, to keep access to justice, are business decisions that the court execs make in conjunction with the PJ, and those are business decisions that Audit recognizes, but our position is we audit in accordance with policy while we also recognize the court's position. With that, the A&E committee and Judicial Council staff recommend the Judicial Council accept the pending audit report dated July 2014 entitled the Audit Superior Court of California, County of Nevada.

>> Thank you, John and Sean. Thank you, Robert. Mary Beth Todd and then Justice Hull.

>> Thank you, Mary Beth, thank you, Chief. This is more of an observation than anything else. We have our trial court liaison program where those who are assigned to courts, we go out and talk to our courts. And then we report back to the council. And we hear details such as this over and over and over again. And I just find it interesting, sad, but interesting that over and over and over again, matters that simply do not occur to so many people that are offshoots of the reduction, the severe reduction, in funding have real-life, day-to-day consequences that require real-life, day-to-day, very, very difficult decisions. And this seems to me to be entirely consistent with that. And I keep hoping this information will be more broadly known and maybe our funding will continue to improve. Thank you.

>> Thank you. Judge Herman?

>> I'd like to add, my court recently, last year, went through a similar audit. And at the end of the day, it's a healthy process. It taught us a lot. And I'd like to say that I appreciate the way you've approached the audit and the information you provided today in terms of the—under difficult circumstances at best—your court's response to the audit in a positive way. So thank you.

>> Mary Beth Todd?

>> I, too wanted to thank Mr. Metroka for coming today to let us know what's going on in his trial court and what's some of the issues that are driving the difficulties courts are having performing their administrative functions as we struggle to protect our operations and the access

to justice. People don't see that on the outside. They don't realize that the court is being opened and staying open notwithstanding severe budget reductions at a cost. There is a cost. Because of our passion and our commitment to access to justice, that cost is behind the counter. It's back in the back offices where courts are really struggling. And I think these audits are starting to—I think we're going to, unfortunately, start to see more and more of this. I appreciate the court's commitment to resolve the issues, to work to the greatest extent possible. I appreciate John and Rob for working with the court. I had a conversation with John about what do we do for these courts? I'm very uncomfortable with this presentation. I was one of the ones who suggested it go on consent. The reason I did that was, when I asked the question, What are we looking for from the council when we bring these? there wasn't a real answer. So I think what I said, and I hope it wasn't misconstrued, was, What I don't want is the appearance of a public shaming. John and I had an extensive conversation about that and we agree that is not the intent here but that there could be that appearance when we are bringing it to the council with no real recommendation for a next step. With that in mind, I would propose that E&P work with A&E to talk about, What do we do when we have an audit, we see a court that's struggling, it's clear that they need some assistance? That's not the role of the auditor. I understand that. Whether it be A&E, CEAC, presiding judges, that we have some constructive steps that we know will be taken when we see there is a court that is struggling in this regard to provide some assistance, to see what we can do to help them out, to work through how they might submit a request for alternative procedures to provide some relief that they need. So I would like to recommend that going into the future that when we have steps we're going to go through when we see this, when it comes back to the council, we're reporting positively on what we're doing to help those courts out.

>> Thank you, Mary Beth. Question to your comment: Is that something that is better handled among the experts, meaning CEAC and the Trial Court Presiding Judges Advisory Committee? It seems like this is a topic—*everyone* here understands Nevada County's position. It's emblematic and symbolic of everything that's happened to the branch in the last five years. So all of us understand the hard choices that were made by the courts to keep the doors open. It seems to me that it would most be helpful to have that discussion that you just referred to amongst the court executive officers, who have many solutions and alternatives, and the PJs as well.

>> Speaking on behalf of court executive officers, we'd be happy to provide some sort of an interim process where we can reach out and work with courts, that—where the auditors are finding a substantial number of issues. I can't speak for Judge Slough there, but—

>> I, on behalf of the presiding judges, would echo your comments, your thoughts, and your goals into the future. I would not want to be a court, and I very well could be a court, that gets hit and undressed like this today: uncomfortable; personally, unnecessary. And I respect you very much, Mr. Metroka, for sitting there calmly, impassionately, and explaining the bigger picture. Thank you.

>> Thank you.

>> Judge Rosenberg, then McCabe.

>> Just have a quick observation, thank you, Chief, and then a quick question. The observation is that trial courts are independent entities. And we will see them deal with these issues independently based on local concerns and local situations. That's the way it should be. The situation in Modoc is different than Nevada, different than San Diego, et cetera. We're all dealing with the situation of five pounds of potatoes being stuffed into a four-pound bag. Trying to figure out how that's going to work. I really don't think these audits should come to the council. If they do, they should be on the consent calendar, period. End of sentence. These audits are meant to assist the local courts. We don't really need to—there's no purpose in—bringing it here to a public airing because, ultimately, all the auditors are doing is saying, here are best practices here's what you could or should be doing, and local courts take it and respond to it. Finally, my question is directed to the audit staff. The CEO of Nevada mentioned, and I've forgotten what they were, two items that they cannot implement, I imagine, because of physical constraints of the building, I imagine. Is that a subject that auditors raise when, for example, you recommend putting in a fire suppression system, sprinkler system, and it would be physically impossible to do it in a particular building? Do you still go ahead and make that recommendation?

>> Well, our job is to identify areas that the court may be at risk at or weaknesses in controls.

>> A suppression system?

>> If you had a fire in a file room and you lost all your records, and you didn't have a backup, or anything like that, then that's up to the court, but our job as auditors is to identify areas where courts may be at risk, and if it's a fire suppression system that they don't have and their records are in jeopardy of maybe some fire starting and losing all their records—

>> What if the court physically cannot do it?

>> There's other ways to do it. If you image your records, you can store them off-site. If you just have paper records and decide to keep the paper records, you probably want to get something to mitigate potential fires. But that's up to management to decide.

>> Thank you. Judge McCabe?

>> Contrary to my nature, I'm going to keep this brief. Sean, number one, you're talking to folks that understand where you're at, where you're coming from. We appreciate the audit committee's work there to point things out, to keep us out of trouble, best practices, et cetera. On the other hand, it speaks volumes for you to come here to talk to us in the manner that you did, in the situation that you did. I've—I don't do that. And so I'm comforted to know that you're passionate about your court. Your reputation precedes you. And you are consistent and fill that reputation by appearing today and discussing quite calmly those issues. So, to you, thank you very much.

>> Jim Fox and then Rick Feldstein.

>> I would analogize this similarly to what occurs in the school districts, which as Judge Rosenberg said, the courts are independent. School districts are also independent. When they get into financial difficulties under the state Department of Education, they have an entity called FCMAT that comes in and looks at the underlying source of the problem and comes up with recommendations for solutions. Frankly, the solution is not that difficult. The courts are under-resourced. And that should be documented; this audit should be used to document how much the impact is when they are under-resourced and the risks that they are at. So I would suggest that this audit could be used as a sword to leverage the additional resources that we've been denied.

>> Thank you, Jim. Rick?

>> I come from a similar-sized court that Sean does, and I've been through the audit several times, found them to be constructive and helpful. It is like going to the dentist but having John and his staff is a good dentist. I appreciate that. I'm also aware of Sean's position because I think it's faced every day by CEOs throughout the state. John rightfully pointed out the risks involved and some of the things that are occurring. And he's absolutely correct in that. Unfortunately because of lack of resources, CEOs and presiding judges are in a position of having to weigh risks and trying to figure out what the worst risk, the worst case is. And it may be a case—and we all make these sorts of decisions—do we risk a receipt and a potential theft down the road or do we risk denying somebody access to a restraining order and perhaps putting their life in danger? Or other sorts of risks involved, businesses trying to get civil [Indiscernible] through so they can remain in business? Do we risk that? Those are really, really tough questions and I can certainly sympathize with Sean's position and those sorts of decisions he made. I might have made different decisions. I don't know. I certainly wouldn't want to second-guess Sean.

>> Chief Justice, if appropriate, I'd like to make a comment when you are available.

>> Please proceed, Justice Huffman.

>> This—to be very candid, A&E didn't ask for this type of work. It's in the rule of court. The Judicial Council determined that before an audit can be public it has to go through us to E&P and then to the council. If you don't want to hear any in the future, that's certainly fine with us. This discussion is exactly what we were hoping for. Nobody blames the Nevada Superior Court for not having resources or for making conscious judgments. The public needs to know, you need to know, that this kind of problem is out there. Sometimes we've had circumstances where the court had lack of adequate trained financial staff and the council directed Judicial Council staff to provide some assistance. We found illegal fees collected at times, and the Judicial Council, working with the various court execs and that, found solutions. If you don't want to hear about these things, we're happy to not tell you, but we think that the problem that Nevada County is classic of the circumstance in which judges are finding themselves and court executives. The fact you folks have now had an airing of it, you've heard a very eloquent explanation from a very experienced CEO, I thought that's what you're about. But, again, A&E did not and does not have

any criticism of these courts' trying to survive. We're simply trying to apply the rules that you've visited on us in a correct and thoughtful fashion.

>> Thank you, Justice Huffman. I for one prefer to have the information front and center than to be asked about it by, oh, the *Daily Journal* two days from now. I for one think it is a healthy discussion because we all understand the reason for it. And it's not about blame. It's another one of those, this is what has happened to the branch. It is not visible to the eye. And it isn't cured, frankly, by the three augmentations of funding we've had in the last two and hopefully three, in the last couple of years. It's not enough. We have to fissures. And the steps really are, we need to be aware going forward, conscious of our choices and liabilities that exist otherwise. But this is a healthy debate and this is where it belongs. The legislative intent in creating the constitutional amendment for this council was, when there is a problem, it comes to council and it shall be ours to fix. All of us understand the choices here. All of us would have made same or different. That's the beauty of a central but unified but otherwise autonomous organization as is our judicial branch. So this was good for us to hear. It makes us think about the future, and it reminds us we have deeper issues than only keeping our doors open. And I'm grateful that Senator Jackson and Assembly Member Bloom were here to hear part of this. So I realize the task of A&E. I once had to chair A&E. So I commiserate with you, Justice Huffman. And you bring us hard work with a critical eye, and I thank you for that.

>> We're pleased to do it. We do feel the pain of these. A&E is composed of trial court administrators and trial judges. And they fully know. So we will continue to do whatever you ask us to do, but we will continue to at least suggest you discuss things where we think there's an important issue.

>> Thank you. I agree with you. So at this point, the matter before council is to accept the report for it to then go onto the public website. Are there any motions?

>> I just have a comment. If I was asked about this, I would characterize it as one of the most in-depth liaison reports we've had, and following up with Mary Beth's suggestion, we haven't even gotten into the details of the impact on morale of staff, and we all know that throughout the state. That's something we have to be aware of also.

>> Thank you, Judge. Jim Fox?

>> I move the recommendation.

>> Second by Judge So. Not seeing any hands raised for further discussion, all in favor of accepting the audit please say aye. Any opposed? Thank you for being here. Best wishes. We continue to look forward to work with you on these issues, Sean. Thank you, John and Robert.

>>Item L, Judicial Branch Administration: 2015-2016 Budget Change Proposal. This is the BCP to strengthen information systems security and data reliability. It's an action item. We welcome Justice Huffman, who is still on the line; Judge Jim Herman, chair of the Judicial Council Tech

Committee; and Mr. Curt Soderlund. And Justice Huffman is here, again, in his position as chair of A&E.

>> Think, Chief. Last but not last on the action items, in 2013 the California State Auditor issued an audit report in a confidential management letter advising that Judicial Council needed to make immediate improvements in the controls applied to secure the council's information systems. In 2014, the auditor said that although the Judicial Council had made strides internally to follow industry best practices, the same capabilities, policies, and procedures implemented by the council needed to be implemented by the courts. And this of course, as the council recalls, a number of trial courts have been audited and will be audited as well by the State Auditor. On receipt of the auditor's recommendations, an oversight committee of the chairs of the Judicial Council Technology Committee, the Trial Court Presiding Judges Advisory Committee, and the Court Executives Advisory Committee was established to guide the response. With the committee's oversight, the Judicial Council Technology Office has worked to comply with auditor's recommendations, and efforts have included adoption of a framework of information systems controls and a gap analysis to identify areas where additional focus was needed that could not be addressed with existing staff and resources. As there is no funding for the additional work needed to fully implement an information security program and resolve the California State Auditor's recommendation, it's been determined that the best solution is to seek funding through a budget change proposal. And the Judicial Council by the way conceptually approved this BCP at our meeting last August. The BCP is in alignment with the recently approved Court Technology Governance and Strategic Plan, and then specifically the strategic plan's goals plan 2, to optimize branch resources, and 3 optimize infrastructure, and the tactical plan initiatives as well. With that I'd like to turn it over to Curt Soderlund, who will discuss what's included in detail within the BCP.

>> Thank you, Judge Herman. The BCP requests \$2.4 million in 15/16 and \$1.1 million in ongoing costs in subsequent years to address the CSA recommendations from the recent audit report that Judge Herman mentioned. And, also, it pertains to the audits from CSA on judicial branch procurement activities. So the funds that are being requested are to be used for these items: the implementation of user access auditing tools within the courts. This item would provide funding for the same tools implemented within the council to be licensed by the courts. This is where CSA was very critical of the fact that we basically didn't have on-time, online versus manual processes for identifying when user access was granted, when it was changed, or when it was removed. The establishment of periodic information system risk assessments within the Judicial Council. We've all read recently about what's gone on with Sony and Blue Anthem most recently. The implementation of information technology disaster recovery infrastructure capabilities within the council, those things are at the CTCC right now but not as strong as they should be within the JCC itself. Implementation of a formalized information security program within the Judicial Council, again referencing Sony and Blue Anthem; preparation for the implementation of a data classification program within the Judicial Council (again, this gets to be an audit issue with respect to what level of protection is given to the resources that we have within our databases). I would also add, very specifically, that the LAO and the recommendation

last year called for the augmentation of resources in order for the trial courts and for the JCC to be able to implement these things. So that was in their report. With that, I'll turn it over to Justice Huffman.

>> Thank you, Curt. Under the rules of court, A&E is tasked with reviewing all budget change proposals for the Judicial Council staff. And in this one we reviewed it on February 4. We were aware of this issue from having also reviewed the state audit report. In the unanimous view of the committee, this is plainly an important task, properly addressed to the Judicial Council staff budget, and we're satisfied that it has been thoroughly vetted by subject-matter committees that those that have expertise. Accordingly, A&E recommends approval of this BCP.

>> Is your mic on, Judge Herman?

>> This really is critical for the trial courts, because all of us are struggling. And trying to be able to move from brass key security to modern security in many different areas is difficult. Sooner or later all of us are going to face audits on this, so it's a pretty important BCP, and JCTC also recommends it to the council. Any questions? Questions?

>> Judge So moves approval. Judge Nadler and Judge Rosenberg second. Any discussion? This is—all of us well remember the report previously from the audit regarding our internal security issues with IT as described by you, Curt, back in the day, when we first discovered this. Any further discussion? Judge Tangeman?

>> Keeping in mind what we heard just with regard to Nevada County and the risks that arise due to insufficient funding for these back-office types of activities, this is a BCP that's going to the Legislature, I assume. So can I also assume that there will also be some description of what risks exposed themselves without this funding? So if the BCP is not granted, everyone going forward knows what risks we are undertaking.

>> That's absolutely correct. It has gone to the Department of Finance and Department of Finance, and Curt and I talked to Depart of Finance about this, and it's hard to read, but they were positive towards this request, and at least understood exactly the point that there are making, Judge Tangeman. From there, of course, we will go the legislative route and we'll make that presentation to the Legislature as well.

>> Do you think it's important that we are on record with the risks in the event this is denied? Thank you.

>> All in favor, please say aye.

>> Aye.

>> Any opposed? Recommendation carries. Thank you, Justice Huffman, thank you, Judge Herman, thank you, Curt Soderlund. We conclude as we often unfortunately do with a brief remembrance of judicial colleagues recently deceased. They are Justice Arthur Alarcan, who

before he retired from the Ninth Circuit Court of Appeal, actually served on the state court here, Court of Appeal, Second Appellate District. I had the pleasure of working with him as cochair of the Fed/State Judicial Council; Judge William Draper, Superior Court of San Diego County; Judge Jules Fleuret, Superior Court of San Bernardino County; Judge L. S. Porter, Sacramento County; and Judge Elwood Rich, Superior Court of Riverside County. All were retired from the bench, and we honor them for their service to the courts and their communities and to the cause of justice. We stand in recess until our next meeting of the Judicial Council in San Francisco, April 16 and 17.

>> [event concluded]