

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 Web site. What follows is captured live captioning, formatted and unedited, of the meeting of July 27, 2012. The official record of each meeting, the meeting minutes, are 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 <http://www.courts.ca.gov>.

>> Chair Cantil-Sakauye: Good morning, all. This is the Judicial Council for July 27th, 2012. Do we have anyone joining on us on the phone?

>> Should be --

>> Chair Cantil-Sakauye: Good morning, Justice Miller. Thank you. The meeting is now in session.

As many of you know, our July meeting is traditionally devoted to the judicial branch budget. But it is a reflection, frankly, of the number and conditions facing the judicial branch this year that we also have a consent agenda and items relating to court facilities have also been added to our discussion agenda for this meeting. I'd also like to note that this is our 9th judicial council meeting this year. And that we are currently scheduled to have 12 meetings this year. Well above the normal 6 to 8 that we historically have seen with Judicial Council. And I want to thank and acknowledge the commitment and dedication of Judicial Council members to attend and contribute to these meetings and the support of the AOC's secretary yacht, Nancy sparrow, to enable these public meetings to happen. Today as the agenda reflects, the council will hear public comments, we have deferred the adoption of minutes from past meetings, the administrative director's report and the internal reports from E and P, RUPRO, and my report and until our regular August meeting. We will approve the consent calendar this morning and begin our discussion for judicial branch budget allocations and reductions to state judiciary entities and the action on the trial court budget yet allocations. Following a short lunch break we will reconvene for our discussion agenda on the two court facilities action items reflected in the revised policy for prioritizing facility modifications and a recommendation on the modifications budget and proposed funding.

I remind everyone that our meetings are audio cast live with realtime captioning for the California courts website. For the benefit of the online audience and also for council members joining us by telephone, please speak into your microphones, identify yourself or each other by name so that listeners can follow realtime captioning readers and the readers.

I want to indicate before we start that I have an agenda report -- I plan to be brief -- because I plan cede some of my time to a guest today, William Robinson, president of the American Bar Association.

I think Mr. Robinson, whom some of us met this morning, will be able to provide us in a few minutes some national context for our upcoming budget discussion items and will be able to share some insights on the ABA's efforts on court funding issues Nationwide.

First I'd like to welcome the final member of our nine incoming members of the council whose terms will begin in December, Alan Hardcastle, president elect of the California judge's association, congratulations on your election, welcome to council, Judge Hardcastle.

(Applause)

>> Chair Cantil-Sakauye: I know some of our new colleagues are here as observers. Let me talk briefly -- my report -- on the judicial branch budget. It's an overview, it will be brief. On June 27th the governor signed the 2012-13 budget act. It represents four straight years of cuts for the judicial branch. And requires us to absorb 544 million dollars cut this coming fiscal year.

I opposed these cuts, like all of you. They have a serious impact on the ability of the courts to provide timely due process to the people of California. I do, however, appreciate the governor and the legislature being willing to work with us under these very difficult circumstances for our state. And I recognize the hard choices they faced in balancing this year's budget. Again I want to thank all the members of our ad hoc budget group who represented the interests of the branch in the budget negotiations and all the many other presiding judges, Judges, court administrators, CJA, bar leaders, AOC staff, and of course council members for the many, many efforts around the clock in Sacramento and in your own homes in districts to your representatives.

Now we have to continue the challenging task of making this budget work for all users of our court system.

At this time I'd -- before we begin our meeting, I'd like to welcome Mr. William Robinson, president of the American Bar Association, and thank him for joining us this morning. Please come to the podium, Mr. Robin Zorn.

I had the opportunity to meet with Mr. Robinson in my chambers this morning along with state bar representatives to discuss the funding crisis confronting the courts in California and across the nation.

And as you know, the ABA, under Mr. Robinson's leadership, has been very active on advocating on behalf of the nation's courts and the funding challenges they face.

The American Bar Association has convened the task force on the preservation of the justice system. As you know this year has been chaired by David Boyd and Ted Olson to focus on the severe underfunding of our justice system. Jodi Patel and I met with them, in Missouri, talked briefly about this matter. Mr. Boyd and Olson joined us for a hearing before the senate judiciary committee this past April to provide a national perspective on court funding. I appreciate all the work of the ABA and the task force it's done on focusing on policy makers on judicial funds. We had an opportunity to talk about the California judicial branch, its funding challenges, the underfunding in other parts of the country and possible solutions and strategies we can jointly undertake to improve court funding. Mr. Robinson, if you would please welcome us with an address of what the ABA is in your visit here.

>> Mr. Robinson: Thank you chief justice and members of the council. It's an honor and a privilege to be here this morning, even under these difficult circumstances in terms of funding for our judiciary in California.

California courts and your employees are under extreme stress; and I commend each of you for your dedication and your drive to preserve our justice system, which is so essential to our representative constitutional government and the very freedom that uniquely characterizes our country in this ever more complex global economy.

When I read the headlines from Sacramento, from San Francisco and other communities around the state, like so many Americans, I am stunned. And yet, I know you are way beyond emotions at this point. You have an intellectual challenge, a professional challenge that we all share with you. There is really no time left to fret about the truly devastating effects of a billion dollars in cuts to our courts. Who could have ever envisioned that in our lifetime the courts would be experiencing this.

It is simply time to act, and I'm not telling you anything you don't already know; and have not already concluded.

I am here as president of the American Bar Association to emphasize that we stand with you and are prepared to support you as we go forward.

We do not have your answers to your problems. But as fellow officers of the court, we share your frustration and disappointment and we are prepared to be a resource for you as you continue to work hard to solve this challenge.

I'm pleased to announce today that our incomes president, Ronald Bellows from Chicago is fully committed on this issue going forward. She has asked receive, my predecessor, and has asked me to step in for David Boyd and Ted Olson who have done such wonderful work over the last two years, to step in for them, give them some relief and to take on the challenge of carrying our ABA commitment forward across this country, including California.

42 states in 2011 cut funding to their judiciaries. This is an unacceptable situation.

I do not need to describe what I have seen over the last year. You know it painfully first hand. But I have seen it from my home state of Kentucky where we have lost 45 percent of our judicial funding just since 2009 and are closing our courts this year for several business days for lack of funding, layoffs and so on.

Layoffs from Kentucky to Oregon, layoffs in California, layoffs across this country. And the judiciary finds it increasingly difficult to carry out its constitutional responsibility.

This crisis of court underfunding did not develop overnight. And to put it in I guess Olympic terms since the big opening ceremony is tonight, the solution, developing it, working for it, and achieving it, this is a challenge not for sprinters, this is for marathoners. And I'm here to assure you that the ABA is in for the long haul. We have been committed and we will continue to be committed on this critical issue.

Our task force on preservation of the justice system, co-chaired so well the last few years with such dedication by Ted Olson and David Boyds has spent so much time and effort gathering data, holding hearings and developing solutions as to how we can best advocate effectively for our courts, state by state, community by community.

We know that public education matters. People, so many people today, simply do not understand what our courts do, why they're so important, why our courts are so essential to our constitutional democracy.

That is why I have spent so much time this past year speaking in over 60 cities about the crisis underfunding of our courts in this country. I've spoken to the chambers of commerce, I've spoken to rotary clubs. I've spoken to law students and practicing attorneys, legal educators. And everywhere I have gone, he ever where I could get the benefit of a microphone, this issue has been part of what I have had to say. Because it's just that essential.

We have also used this crisis in the process to co-host court funding symposium at my alma mater, it has been a national significance in studying this issue from an analytical perspective. We have offered more than 50 op eds on the issue and developed a tool kit with videos and tip

sheets for bar leaders on what they might consider doing in their respective states. And we will do more in the coming year and years beyond that.

In times of financial crisis, our courts actually face more demand, more pressure for delivering justice; and yet the money shrinks and shrinks, and shrinks.

But our judiciary is a co-equal branch of government and deserves to be funded as such. When those who founded our country won the revolutionary war, the historians tell us they had very little money, had to rent store fronts to hold meetings, couldn't build roads, of course had no utilities. But they wisely at that time wrote into our constitution three co-equal branches of government. And those of us with the benefit of education, including professional education, we know and understand that the courts are the lynch pin of our constitutional democracy. They are the essential ingredient that makes our democracy unique in the history of world and certainly unique in our time.

We as officers of the court have no more sacred privileged responsibility than to stand up and speak out for our courts.

That's where the American Bar Association is, that's our number one issue, our number one commitment. No one -- no one would seriously consider for budgetary reasons closing a firehouse or a police station, or a hospital emergency room one day a week. It's unthinkable.

But our courts are the emergency room of democracy. That's where the triage for constitutional rights is decided upon case after case. And this is the essence of this freedom for which so many in the history of our country for over 200 years have sacrificed and even died to pass it to us as our president would say, in our time.

We must do something in our time to address this. We as officers of the court, need to work together. And I assure you that the organized bar, the American Bar Association, like your great California bar association, under the leadership of John Streater, we are there for you. We don't have all the answers, but we do have resources. We do have intellect, education, and commitment to bring to your support. We have done that over the last two years, together we have not yet succeeded. And anything less than success on this critical issue is unacceptable. So we look forward to working with you as we go forward. We hope and trust that you will not hesitate to call upon us. And I assure you that the American Bar Association will be there as a resource and as a support for you on this very, very critical issue. Thank you so much, chief justice. Thanks to all of you for this opportunity.

And again, thank you for the great work that you're doing for the citizens of this great state when it comes to justice, access to justice, the delivery of justice much our quality of life depends on it. Thank you all very, very much.

(Applause)

>> Chair Cantil-Sakauye: Thank you, President Robinson for that inspiring speech and for your leadership with the ABA on putting a spotlight on the judicial funding crisis. We look forward to your continued leadership on the preservation of the justice system task force. Thank you.

>> Like -- it's huge --

>> Chair Cantil-Sakauye: Pardon me?

Next we come to that part of our agenda referencing public comment. Although we have ten requests for public comment, nine are for the specific agenda item F. So when we call agenda item F, we will hear public comment related to that. We have several speakers, including judicial officers who will be called first on item F when we get there. In the meantime I believe we have one speaker speaking on the public comment calendar to a nonagenda item. I invite Mr. David Farrar from the state bar of California, member to the agenda -- to I conference. Our agenda shows five minutes, Mr. Farrar. Thank you.

>> David Farrar: Let me turn on my stopwatch here, your Honor.

Good morning, honorable chief justice and on rabble members of the Judicial Council. Thank you for allowing me to address you on among other things local trial court funding. My name is David Farrar, and I have been a member of the California bar for 39 years.

I started my legal career by serving as a law clerk to the recently deceased Robert Kellaheer, in the Central District of California. Since that time I have been a partner at the law firms of Jones Day and Shepherd Mullen. In fact one of my former partners at Shepherd Mullen recently served as presiding judge of the Los Angeles Superior Court.

Like the previous speaker, and I'm sure like everybody here in this room, what's happening to our courts is a tragedy.

And I think the problem is so big that I certainly don't even pretend to have what might be called a global solution or even part of a global solution; but I have one small recommendation which I believe would make a small difference in increasing local trial court funding. And I would like to share that with you this morning. You may remember that I previously addressed you in May, shortly after the governor announced his May revised budget, which substantially cut the judiciary's funding.

At that time I urged you to make a simple change to an allocation formula to simply allow local trial courts to keep a higher percentage of the revenue they collect from court-ordered debt. I pointed out that if even 10 percent of the 7.5 billion dollars could be collected, that's 750 million, would make a big difference in funding local trial court operations.

Immediately following my appearance here, I experienced for the first time in my 70 years my personal 15 minutes of fame.

National Public Radio, NPR, even picked up a story from the metropolitan news article about my speaking here.

My mother would have called me were she alive.

(Chuckling)

>> David Farrar: And a well known columnist wrote an article, if the courts are so broke, why are they owed so much money?

That's a really good question. Do you have an answer?

There was considerable speculation to the effect that I guess people who don't pay just don't have the money.

But the simple fact is there's absolutely no evidence to support that speculation. For all we know, all the people that don't pay are drug dealers, driving Cadillac Escalades who simply have no respect for the law. And that could be why they don't pay.

In fact, a recent survey by local NPR station said that -- found that over one third of the respondents said that although they could afford to pay, they were not going to. Why is that?

Because according to a number of callers, whereas collections agencies were pursuing them on behalf of other creditors, nobody was pursuing them on behalf of the courts.

Now, why is that?

My speculation is that since the local trial courts do not keep any of the additional revenue collected, there is absolutely no economic incentive for them to try harder. In my written comments, which I hope are part of your packet, I spell out exactly what this Judicial Council could do to allow the local trial courts to keep a larger allocation of the excess revenue which they collect.

Will this work?

Who knows. The one thing is clear: The current system is broken. And right now the 7.5 billion in court-ordered debt is just sitting there as a major embarrassment to all of us.

And if even 10 percent of the 7.5 billion were collected, we would all be better off.

And finally, there is no down side for trying. And as the ABA president said, this is the time to act.

Thank you. Cant can thank you, Mr. Farrar.

As Mr. Farrar referenced, there are written materials also that each council member has on the subjects we are discussing, as well as the topic of court-ordered debt collection referenced by Mr. Farrar.

On our agenda, we are now at the consent calendar. We have not had a request to remove any of the items from our consent agenda to the discussion agenda. Therefore we approve the proposals and recommendations indicated in the agenda, items A 1-A 2 through D. By way of explanation, as many of you know, the executive and planning committee places items on the consent agenda, the calendar in consideration of council meeting time. Placement on the consent agenda in no way reflects the significance of a proposal. And prior to any meeting, any council member may request that an item be moved from the consent agenda to the discussion agenda.

Having approved all items in the consent calendar, we now move to our discussion agenda, the first one is item E, no action required. This is the judicial branch budget 12-13 reduction to the state judiciary entities. I will have the presenters please introduce themselves at the podium or at the panel desk.

>> Curt Soderlund: Curt Soderlund, interim director.

>> Zlatko Theodorovic: Director of finance division.

>> Steven Chaney.

>> Chief Justice, before we get into item E, disciplinary -- we have the information from one court, the report to the legislature that they wanted to take a look at a couple of the contract reporting numbers that we had on a few occasions. So we're going to go back and send out information to all the trial courts, again, making sure that the information that we're going to send to the legislature is accurate. We do send information to the courts advising them to monitor those contracts on a monthly basis. And there have been other special communications that have gone out to them in the month of May, June and July to that effect.

>> Chair Cantil-Sakauye: Curt, you're referring to item B?

>> Curt Soderlund: Yes.

>> Alan Carlson: Alan Carlson, Orange County. We talked a little bit this. I have gotten e-mails from the executives. I read the report before I saw the e-mails, is there something in the report that says this is the second time we've done this, we're working through bugs and there may be errors in these reports so we're clear that this isn't definitive in some way that people misinterpret it?

>> Last year we had an occasion where we had a court that inputted information and large courts generally input their own information. We do it for, if you will, the virtual buyer courts. There was an entry last year that identified a contract for a particular court that was 30 million dollars. There were three soar rows that had been add today that figure -- zeros that had been added to that figure if you will. It's those kinds of errors we were checking on. We tried to work through the office of governmental affairs on amending that particular government code section that would I allow us to add an additional month before we do reporting to the legislature. Right now the reporting requirements are at the end of January and at the end of July, we had sought to have that moved back one month so that we could have some additional time. Unfortunately that measure did not make it through to the legislature but we will probably continue to work on that. It does create an ongoing problem for the trial courts and for the administrative office of the courts on reporting that data.

>> Chair Cantil-Sakauye: Curt -- go ahead.

>> We've also had software problems. Our staff found issues where they did something on one PO and did something on the next and what happened to the second one somehow happened to the first one again. And it got repeated somehow. I'm sure there are other bugs like that in there.

>> We're trying to look at those. The first report of this effort occurred in January. We had to create a whole new set of reports within Phoenix to be able to accomplish that. We're talking about thousands and thousands of contracts. And information and data that all has to be validated. It's an ongoing effort. There's likely to be some tweaks that will occur in the future, less and less each iteration.

>> Alan, as a suggestion that the report indicates some statement about that this is as accurate as humanly possible?

To account for --

>> The second time. It's 1200 pages.

>> 100 entries per page.

>> Yeah.

>> We're ensuring accuracy to the best of our ability. There may be --

>> Yeah, that's the idea. People are going to look at this thing and they're going to say you reported this. Okay, but it's not perfect.

>> Sure.

>> Every time.

>> Chair Cantil-Sakauye: Let me get clarification. You're confirming the numbers on item B. But it's on the consent calendar. But I haven't heard that it be taken off but you're telling us that there will be corrections to it later on potentially?

>> Within the next two weeks before the report goes to the legislature we will make sure with the trial courts that the data is completely accurate. >> Chair Cantil-Sakauye: You will report back to the Judicial Council on that.

>> That's true.

>> Chair Cantil-Sakauye: Thank you, Alan. Start with item E, the discussion agenda.

>> Good morning, chief and council members. This item is being presented as an informational item to detail the reductions in the 2012 budget act for the state judiciary entities. Specifically the budget schedule is 49.043 million dollars in reductions to the state judiciary. That is reflective of a continuation of 30 million dollars that was included in the 11-12 budget act as well as an additional 19 in new reductions, 8 million dollars of which are from the general fund and 11 million dollars are from other funds. Of the 19 million dollars that was reduced, 15 was redirected to offset reductions to the trial courts. As you can see on Page 1 of the agenda of your item, it shows you the 11-12 plus 12-13 total reductions by judicial branch end at this time, notwithstanding the trial courts which we'll discuss after this report.

Curt is going to discuss some of the actions and impacts. I'm going to go through the numbers so you get a sense as to what has happened to each entity.

The Supreme Court in 11-12 had a 2.8 million dollars reduction. There's additional reductions of \$500,000 this year, bringing a cumulative reduction to 4.3 million dollars.

>> So in essence what's occurred is that the Supreme Court staff has endured a 5 percent furlough, basically that's been an ongoing effort for the last three years. There have been no cost of living adjustment increases. Positions have been held vacant and only critical positions are being filled. This point in time. And we're working with the APJ's to ensure that -- and with the Supreme Court staff and the clerk that we're staying within budget. We continue to monitor that situation. And the budget is very, very tight, as you might suspect.

>> With respect to the -- the 11-12 budget reductions were 12 and a half billion dollars with an additional 2.2 million dollars coming in the 12-13 fiscal year. Brings the total reductions for the courts of appeal to 19.2 million dollars. I would note for both of Supreme Court and courts of appeal there were some fee increases that helped mitigate some of the reductions that have

occurred over the last two years to the tune of about \$2 million.

>> Again, this will be a little repetitive, again there's the furlough continues for the courts of appeal staff, there's been no cost of living adjustments since 2007. We are he' working with the appellate court justices and clerks in terms of monitoring their budgets and looking at ways to make sure each of the appellate court districts stay within their budget. There have been delays in filling critical positions. And we were looking at reductions also in the number of filings through the courts of appeal, 10 percent reduction in the civil appeals, 5 percent reduction for criminal cases and 5 percent for juvenile cases. And the operating expenditures for the courts of appeal have been reduced by more than 32 percent in terms of the cumulative effect. And mediation and settlement activities have been severely curtailed.

>> With respect to the council and the AOC, the 11-12 budget reductions were 13.5 million dollars with an additional 7 million dollars in the 12-13 fiscal year, bringing the total reductions to the AOC council budget of 30.8 million dollars. With respect to the facility row gram, a small reduction in 11-12 of 181,000. But with a much larger cut this 12-13 fiscal year of over 9 million dollars, bringing their total reductions to 10.3 million dollars. And again, 15 million dollars of the recent cuts to the -- to the council, AOC and facility budget were redirected to offset cuts to the trial courts.

>> This is the area that we probably discussed most and at the last meeting, the interim director of the courts, Jodi Patel, made report to the council on our various efforts to align our budget with our resources. There have been the mandatory furlough program, a voluntary separation program, there's been layoffs. We in compared to last year have dropped 277 positions. As was identified in a press release as I recall, was two days ago. We were looking at realignment and restructuring of the organization. There's been consolidation of several of the divisions within the AOC. The 15 million dollars reduction is something that we're still grappling with in terms of that impact, particularly on the office of court construction and management.

And we'll be reporting back to the council in the August meeting on the outcome of those efforts.

>> Finally, the habeas corpus resource center had an 11-12 reduction of \$1.1 million. Addition Al \$200,000 reduction, bringing total reductions over the last four fiscal years to \$1.7 million.

>> It's a similar, if you will, number of facts for habeas corpus that have previously reiterated. I won't repeat that.

>> Chair Cantil-Sakauye: Thank you.

>> Any questions of the council?

>> Chair Cantil-Sakauye: I don't -- no, thank you.

>> All right.

>> Chair Cantil-Sakauye: We'll leach that -- I believe that concludes, then, our presentation on item E, an informational item. The next item on our agenda, is F. And this is whereas I indicated previously we have nine speakers. Five minutes each. Item F is our trial court budget fiscal year 2012-13. Allocations. This is an action item.

Joining for the presentation of the information to the judicial council, presiding Judge David Rosenberg, chair of the trial court presiding judge's advisory committee and co-chair of the trial court working group. Welcome. Before we hear the presentation I call to the podium first the honorable David Warner, presiding Judge of San Joaquin County. Welcome Judge Warner.

>> Hon. David Warner: Chief and members of the council, good morning. I'm warn judge, presiding Judge of San Joaquin County. I'm here today to address the budget allocation process which has been an ongoing process of the trial court working group which have made the recommendations before you today from the July 17 meeting. Those recommendations do present some difficult decisions for you to make. I have either been at their meetings -- I'm not on that working group but at the meetings either in person or through the video conference system to hear what's gone on. I want to make some comments about that.

Most of the areas in my perspective, the way this has worked out, there wasn't a lot of option for the working group to change. The legislature this year has decided to give us some pretty tight parameters. And they got them and as I heard at the meetings, had to deal with them the way they came down. And they revert consistently to the proportion share going out to trial courts. There is one area, however, where there is some wiggle room and where the council does have some discretion. And that's with reference to recommendation No. 6. It involves nearly 59 million dollars in offsets which can be allocated through some other methodology. I'm here today requesting and recommending that you adopt different methodology than has been recommended by the working group. That is that either the RAZ model be used or the new updated SB56 working group model, which doesn't happen to be available yet. But that an RAS type model, a case-based system should be used relative to that 59 million dollars. The work of the working group, SB56 working group is not completed, although it was begun in the fiscal year 2009-2010 and we're still waiting for that. And one of the things that bothers me being from the most underresourced court out there is as the old RAS model I'm told is too old and we shouldn't use it and shouldn't refer to it, I don't have a new model to refer to. But I assure you as I stand here, we still are the most underresourced court in this state. With the -- with or without an RAS model to look at.

We do need that model. I urge that those working on that continue to work hard and expeditiously so we can have it and find out exactly where we're at. And use it to come up with a fair method for funding. Last April when I was here, I was told that it would be available this summer. I was hoping it would be on the agenda today. I don't see it there. I understand that it's still a work in process. And perhaps several months out.

Through the last fiscal year 2011 -- 2012, San Joaquin county was able to deliver a justice system in our county on a rather shoe string budget. We did get cases out, some case right side starting to slow down. Access to justice is becoming very questionable in our county. I would remind you that San Joaquin county has the same constitution hanging on its wall that you have on yours. But when you fund it differently, it's not the same justice system. And with what we see for this present fiscal year, it is going to get worse.

In 2011, October 2011 we laid off 45 staff and have 53 vacancies. After meeting several times with our bargaining unit for concessions, we have had to issue 13 more layoff notices. And there will be a vote today by the union whether or not to accept a day a month furlough for the next fiscal year.

If that vote passes, then we will rescind those layoff notices. If not, then we're losing 13 more staff.

Our other executive management and supervisory people who are unrepresented have agreed and already started a one day a month furlough. The bottom line is more layoffs means an inability to get the work done, an inability to process cases. I anticipate with the budget that I've been shown that we will now not be doing small claims. We will finish off those cases we have, we will not offer order of exams, writs, abstracts or anything else. They'll get a judgment and be put away. New small claims will go in a box. Save the filing date, that's it. And with some civil, we'll be doing the same thing.

We are hopeful that we can still get some concessions that will keep us up and running. But at this point I'm not very positive in that.

Our attempts to mitigate our allocated budget reduction will not be solved until our structural budget deficit is solved. We've relied on the trial court budget working group and the Judicial Council to fix what we believe to be an inequitable budget allocation process that has existed since trial court funding. I urge you now with that part of the budget that you have some discretion with to allocate that funding on a fair basis.

We -- 59 million dollars addressed in recommendation No. 6 be used with an allocation process that uses an RAS methodology. That would be fair funding. I do understand that you've got a difficult problem. And I do appreciate your work and time and effort. And particularly the court budget working group, their effort on this problem. Thank you.

>> Chair Cantil-Sakauye: Thank you presiding Judge Warner.  
Next we'll call assistant presiding Judge Brian Lamb. Superior Court of California County of Inyo. Welcome, Judge Lamb.

>> Hon. Brian Lamb: Thank you for allowing me to address you this morning. I'm addressing you here today with respect to their proposal on a sweep of the trial court fund balances. Inyo County together with a couple other Counties that we're aware of, Santa Clara and Alameda County, were in the situation where fund balances were committed to capital projects and at the direction of the AOC and the effect in Inyo County is that the long standing SB07 on the construction books for the County seat in Independence, California, some of you may remember I had the honor of addressing this body in April of last year regarding our controversial location of our SB 1407 courthouse. And that is currently planned for the population center. In northern Inyo County at Bishop. The planning for that is on hold along with priority assessment for our SB1407 projects. That location of the SB1407 project was dependent with the understanding that historic CCF funding that the court has that's been held by the County of Inyo could be supplemented by reserves held by the Superior Court in order to fund a small courthouse construction project next to the county jail in the county seat of independence to replace our obsolete historic courthouse in independence. So we like other courts saved and scrimped and set aside money in order to fund that. And as late as late June our understanding we worked out with the AOC to -- architecture or resource funding account in

order to formalize the fact that those funds were not available either for operational use in Inyo County, or for sweeping.

At the last minute the decision was made that the AOC not follow through on that. The effect is that our fund balance as of June 30th shows that that 1.5 million dollars still shows as available for sweeping and the recommendation of the trial court working group is to consider those funds as available for sweeping along with other funds. The effect on Inyo County will be severe, adverse and perhaps irrevocable, as this construction project is not an SB1407 project. We don't have the prospect that perhaps in the future other SB1407 funds could be made available to backfill the project.

And I'm asking the council to consider treating this lump sum of 1.5 million dollars that's been held and committed to this purpose as not available for sweeping.

The -- I understand the constraints that the Judicial Council and the branch are working under with respect to the legislation that was adopted. At the same time it's within your purview as a co-equal branch to determine the meaning and the applicability of the statute to these circumstances. And I'm asking you consistent with the facts in this situation to determine that this small amount of funds in the big picture is not available for -- or not available trial court balances, available for sweeping so that they may be committed and spent on the construction project that has been planned.

I don't want to take a position that's adverse to the situation of any other trial courts. We're not trying to mitigate the hardships that everyone is facing. At the same time I have to be an advocate for my county and for my branch. The effects of these sweeping decisions, especially on courts such as ourselves that have saved and committed specific funds for the purpose of specific construction projects, to have the funds swept as if they were uncommitted or generally available operational funds is going to have a severe adverse and irrevocable effect on our plans to provide services to the citizens of Inyo County.

So in taking this action I ask you to consider the -- those impacts.

I respect that it may be the judgment of the Judicial Council that making exceptions or distinctions among trial court fund balances is something that is in controversy and can't be resolved today. If that's your position, I do ask you and your staff through the AOC to continue to advocate both with the executive and the legislature to remedy these injustices that apply to Inyo County.

So with that that's my comments, thank you for your time.

>> Chair Cantil-Sakauye: Thank you assisting presiding Judge Lamb. And rest assured that the Judicial Council and all judicial branch stakeholders and the bar associations included have been advocating against the injustices to all counties, including Inyo. Thank you.

>> Thank you madam chief justice.

>> Chair Cantil-Sakauye: Next we'll hear from Ms. Melissa Fowler Bradley, Kimberly Flener, and Lori Wills, the counties of Shasta, Butte and Trinity collectively. They will be speaking for ten minutes. Welcome.

>> Good morning, Chief Justice, members of the judicial council. My name is Melissa Fowler Bradley. I'm the executive officer for Shasta County court. Also with me is Mr. John Zeik, possibly the best financial officer for the County courts in California, Ray tickler. -- Ms. --

has allowed me to speak on behalf of her court today in the interest of staying within our allotted time. Kimberly Flener, CEO for Butte is also here and will speak to you in just a moment. Thank you for allowing me to speak to you today.

The purpose of my remarks is to request that you do not adopt one of the recommendations of the trial court budget working group, but rather you use another scenario, as I have provided on my handout. The item I am referring to is No. 4 in your report. The working group's recommendation with respect to the allocation of the 150 million dollars reduction to the trial court.

The working group's recommendation follows the trailer bill language by applying the reduction based on the 11-12 trial court trust fund allocations which for two courts includes 100 percent of their security funding. We are the only courts in this state whose trial court trust fund allocation includes 100 percent of the security funding. Shasta and Trinity have had marshal's offices for many years, and thus we are unique from other trial courts in this state in that our security is provided by court staff, not sheriffs.

It should be noted that the Judicial Council recognized this disparity in 2011-2012 when these two court security allocations were excluded from the reduction computation in order to avoid the disproportionately larger share. When criminal justice realignment occurred last year, the security funding for the other courts were transferred to Counties for sheriffs to provide security services. 38 courts have a remaining nonsheriff security allocation plus Butte's piece of a remaining sheriff's security allocation for a total of 39 courts. Examples of nonsheriff security allocations are services such as court attendants' or contracts with outside vendors to provide weapons screening. There are only two courts, Shasta and Trinity, where 100 percent of the security budget remains included within the trial court funding allocation. Butte is also impacted due to an unfortunate error that occurred last year. And Miss Flener will provide more information on that. My proposal to you is that you follow the scenario set fourth in alternative No. 1, applying the 150 million dollars reduction for these three courts. This is consistent with the trailer bill language. You have the authority to do so. And I maintain this is the right thing to do by allocating the reduction in an equitable fax amongst the trial courts.

The proposal in alternative No. 1 is within the letter of the law and by using these calculations you will prevent the reduction for Shasta, Butte and Trinity from being disproportionately larger than the other trial courts.

In our meetings with Zlatko and Steven Chaney yesterday and again this morning they confirmed you do have the authority to adjust the basal location in order to correct this problem.

I believe there's strength in numbers. These three small courts are the least able to absorb cuts beyond their share.

If you don't adjust the basal location, Shasta's reduction increases by 27 percent, Trinity's is increased by 40 percent, necessitating that possible closure of their only weapons screening station. This is a security issue. Safety in these courthouses will be compromised as services are reduced to dangerous levels.

Only these three courts are being asked to take this kind of a hit to their security funding. I am asking for your help. I am asking that you intervene by using the only fair and equitable method of applying the 150 million dollars reduction, which is to adjust the basal location for these three courts.

Handout No. 1 illustrates the budget in the working group in columns A, B, and C. In comparison our proposal is reflected in columns, D, E, and F. You will note the total amount

adjusted for the three courts is -- \$316,705 which is spread statewide resulting in the other courts taking infinitesimal adjustments.

As an alternative I've also included a second handout which follows the same formula used to adjust the base for 39 courts a concept used by the working group in two of their other recommendations. This scenario increases the proportionate share for three courts slightly. Miss Flener would like to make her remarks.

>> Thank you, good morning. Kimberly Flener. Thank you for allowing us the opportunity to speak to you this morning. I wanted to take a few extra moments to explain how Butte's situation is even more unique in that the only reason we have any security funding included in our allocation is due to an error. At no fault of our own.

In fiscal year 11-12 as part of the realignment Butte's share of security costs with an inaccurately represented to department of finance. Not by us. We immediately asked that it be corrected. We were told it would be included in the budget change proposal. We were then advised the entire amount would be shifted beginning in fiscal year 12-13.

We've been working with our sheriff's office and have assured them as we had been assured that it would be corrected beginning this year. We took the additional hit to our allocation last year with the trust that it would be a one-time occurrence.

However, we were advised a few days ago that Butte's trial court trust fund allocation per share of cost was inadvertently not transferred to our sheriff yet again. The department of finance indicated it cannot transfer the monies to the County of Butte's trial court security account. We were left with the direction that we will now serve as a pass-through for the \$476,000. This is clearly an error on the part of the State. And we are asking that you take correction -- action to correct this. Not have our court at a disadvantage due to an error. If this had not occurred we would be in the same category as the other 19 courts whose security funding was completely removed from their allocation. And we would not be wrongly harmed. Thank you.

>> Chair Cantil-Sakauye: Thank you. Thank you, Ms. Fowler Bradley, Ms. Flener, and Ms. Wills.

Next we will here from Gwendolyn Jones.

>> Gwendolyn Jones: Good morning. I am president of local 575 representing Los Angeles Superior Court clerks and paralegals. There are many people here today making specific recommendations about how this agency and California courts should move forward.

As we contemplate our future, I would like to suggest that we start with the basics. Before this body decides how to reshape the AOC and how to best protect justice in this state during these devastating cuts, we need to define ourselves and what we stand for.

I respectfully suggest that each of us here today make a commitment to these four principles: Accountability, transparency, oversight, respect.

If this council will openly commit to moving forward with these ideals as guiding principles, it will go a long way toward beginning the slow and necessary process of rebuilding confidence in your leadership.

We ask that you take the power that is rightfully yours and help our courts and our administration to get back on track.

Accountability, transparency, oversight, respect.

Do you believe in these ideals?

Because I do.

I hope you will accept this challenge to help lead our courts forward with these ideals as our road map to a stronger, better future. Thank you.

>> Chair Cantil-Sakauye: Thank you, Ms. Jones.

>> Mark Natoli: Good morning, madam chief, chief council members. I am Mark Natoli, a clerk in the Los Angeles Superior Court and -- representing Superior Court clerks and paralegals in Los Angeles county.

On June 15th of this year the court in Los Angeles laid off 157 employees. Nearly 200 more workers were reduced to lower paying positions they had previously held with the court. Many of these are now working part time, suffering a 40 percent reduction in pay.

Given most recent budget cuts enacted by the legislature, we are almost certainly facing reductions on a similar or perhaps even greater scale in the near future.

The devastating impact of these reductions on our members cannot be overstated. However, it is the people of loss and less County who are going to begin feeling the impact of these measures most dramatically. A year ago when addressing this council I stated that we were meeting our obligation to serve the public and provide our citizens full access to justice with some difficulty.

Today I must report to you that we are on the brink of not being able to fulfill this mandate. Bag locks of orders, judgments and other important documents awaiting processes are mounting.

People coming to our courthouses to inspect files or obtain documents or to have their cases heard face long waits. Sometimes they are not served or heard at all. And asked to come back another day.

56 courtrooms, nearly 10 percent of our court's capacity, have been closed this year, including 24 criminal courtrooms.

We are fast approaching the point where public safety will be adversely impacted by these ongoing reductions. If indeed we have not reached that point already.

Further reductions to our court will take us to a place that I don't think any of us wants to contemplate.

We have several requests of the council today.

First we would ask that the council not divert any money from the trial court trust fund to other areas of the branch for the remainder of this calendar year. Secondly we ask the council to fully adopt the recommendations contained in the recent report of the strategic evaluation committee and order a complete restructuring and reorganization of the AOC with the resulting savings being directed to the trial courts. Third, we request that the council enact a two-year freeze on all new courthouse construction and allow the money collected from each trial court throughout the state for construction projects to remain with the collecting trial court during this two-year period. Finally, we ask that any monies available from the trial court improvement fund, the judicial modernization fund or other sources available to the council be provided to the trial courts statewide to help alleviate the current crisis in funding.

We realize madam chief and council members that we are asking the council to make difficult choices. We believe that if the trial courts in this state suffer further budget cuts, we will soon be living in a different society. One in which citizens cannot be confident that they can take their disputes to court and have them resolved in a fair and prompt manner.

Without this confidence, people will begin attempting to take justice into their own hands with predictably disastrous results. Thank you madam chief and members of the council for hearing us today. We look forward to working with you in the future to secure full funding for the judicial branch and to rebuild our courts into the best in the world. Thank you very much.

>> Chair Cantil-Sakauye: Thank you Mr. Natoli.  
Is Ms. Karen Norwood not here -- present?

>> She's not here.

>> Chair Cantil-Sakauye: Next we'll hear from Ms. Robyn A. Lewis and Ms. Kira Klatchko. They'll be sharing five minutes. Welcome.

>> Thank you so much, your Honor, and thank you to the council for giving us time to speak with you this morning. We are not here to complain about the size of the pie that we are all forced to share. I think we have agreement from everyone in this room that the pie overall is just too small. But we are here to talk to you about the slice of the pie, the amount of resources, allocated to Riverside County.

Historically, not just in this latest round of cuts, historically we are an underresourced county. We were listening a few moments ago to Judge Warner and his story sounded very much like our story. To give you an idea what our community is facing, what our litigants face every day, what our judges face, what our members in the bar association face, since 2000, 29 percent of the state's population growth occurred in the inland empire. That's Riverside and San Bernardino Counties. 29 percent. Between 2000 and 2010, case filings in the superior court statewide were up 24 percent. In Riverside county they were up 40 percent.

40 percent.

We have the highest number of case filings per authorized judicial position in the Superior Court in the state for each judicial position, there are 6,446 filings.

That is a new meaning for case management when you have 6,446 cases to oversee.

In 2011 the national center for state courts recommended that Riverside County -- get approximately 75 more judges on the Superior Court. To give you an idea, we currently have 76. So that's almost a doubling of the number of judicial positions we have. Riverside County has more court trials than all but one other County in the state. Riverside County has more jury trials than all but one other county in the state.

We have as many jury trials approximately as Orange County and San Diego County combined. All of those have to go somewhere. So our appellate court, fourth district division 2, which oversees San Bernardino, Riverside and Inyo deals with 10.3 percent of the entire appellate court workload for the state. They do not get 10.3 percent of the resources for the appellate court system.

On a workload adjusted basis using the Epstein formula designed in 1995, very similar to the YJAO formula these used by the circuit courts in the federal circuit, we have the highest number of opinions per justice. That's workload adjusted. Meaning it accounts for differences in civil and criminal and juvenile. And as I'm sure the chief is well aware, we have a very high percentage of death penalty cases. We have a high percentage of SEQUA cases, large cases, complex matters, as complex as other counties in the state. And this is an ongoing problem.

So we're here to ask you in our written comments that we've submitted, detailed these figures and other figures. And we're here to ask you much like Judge Warner, to revisit how you're

doing these allocations so they will be equitable. And we want you to know that the bar association will do whatever it can, whatever you ask us to do to make sure it will be equitable going forward. That's a long process, we recognize that. But we would like to present to you one proposal this morning that will allow us to be with the -- deal with the more emergency problem that we have in our trial courts. If you remember, we've had this problem for a number of years. Several years ago this council and the AOC were kind enough to send us what they called a strike force to allow us to reopen our civil courtrooms much that's before the latest crisis. That's a military term. So you sent a strike force into our war zone to allow us to have civil -- several years ago.

So we don't want to return to that militarized state. Ms. Lewis would like to share with you thoughts on how to alleviate that problem.

>> Good morning. The Riverside County Bar Association is before you today to offer a proposal which would benefit Riverside County and other counties, San Bernardino, Fresno and San Joaquin. A relocation of judicial resources by allowing or using the allocations set forth in AB159. As you know authorized 50 new Judgeships based on demonstrated need in each county determined by court filings and workload standards. Based on that rubric it was decided that Riverside and San Bernardino each were in the most need of additional resources which each County allocated seven additional Judgeships. We are asking the Judicial Council consider using its budget of \$26 million for AGP funding. Unfortunately Riverside County which has used assigned judgeships in the past no longer afford to pay for those judgeships. We ask you look at our written proposal and commentary and consider using those funds to pay for Judgeships and staff to support those Judgeships which would give us much needed resources. Thank you.

>> Chair Cantil-Sakauye: Thank you.  
Still hear from Ms. Pamela Walls. County of Riverside.

>> PAMELA WALLS: Thank you honorable chief justice, members of the Judicial Council and staff.

I don't need to repeat my name or my affiliation. But I'd like to reiterate that I'm here really for the same reason presented by the Riverside County bar association and also represented by Robin and Kira today. On behalf of the County of Riverside, we are here today to ask you to allocate a portion of the AB 1464 funding to assigned judges and support staff. This is a line item in the budget bill and it's a purpose for which the legislator -- legislature appropriated these funds. Further, the assigned judges support -- that the assigned judges and support staff be allocated in accordance with the AB159 allocation of judges according to judicial need. The assigned judges program is what sustained the County of Riverside when not long ago it virtually had to shut down its courtrooms. Its civil courtrooms.

Only criminal, family law and probate, and dependency cases were heard.

Many of the cases were dismissed for failure to bring them timely to trial.

The -- judge's program helped to address court congestion and delays. Due to more recent budget cuts, 9 courts have had to be shuttered, including a dependency court with more to come.

Dependency courts ensure the safety of our most vulnerable, the children.

If there were no judges to issue orders to detain children or to process warrants for their removal when they are in danger of physical or sexual abuse or severe neglect, we are being derelict in our duty to protect children.

Many counties have not taken advantage of the assigned judges program because the cost of staff attorneys to support the assigned judge.

Funding in the past has been allocated for the salaries of the assigned judge but not to support staff.

However, the line item in the appropriation, the 26 million, also includes funding for support staff and should be used for that.

We are requesting only 7 assigned judges and support staff. This is such an integral program to prevent closures in Riverside County, it should not be the subject of an interfunds transfer, nor should it be eliminated.

If support staff is included in the funding, as intended by the legislature, this will be an invaluable program to prevent court closures and to ensure equal access for justice.

Thank you for this opportunity to comment.

>> Chair Cantil-Sakauye: Thank you, Ms. Walls. Next we'll hear from four persons from the California federation of interpreters, Mr. Michael Ferreira, Marylou Glen, Mr. Brandon Scovill, Mr. Ignacio Hernandez, to share 15 minutes. Welcome.

>> Thank you. Honorable chief justice and honored members of the council, good morning.

>> Chair Cantil-Sakauye: Good morning.

>> Michael Ferreira: I am the president of the California Federation of Interpreters, CFR represents 989 court interpreters in California who provide interpretation services in 51 languages. They provide access through the entire state. Local courts are already struggling to meet their language access obligations. Every month the California federation of interpreters catalogs incidents reports. Our members around the state routinely witness Californians standing before judges with no ability to effectively understand their own legal proceedings or communicate with their counsel or otherwise get their needs addressed.

This results in inefficiencies that increase operating costs. This agenda item to reduce funds from corporate interpreter services will exacerbate an already existing shortage of services for California's limited English proficient people, who, incidentally, comprise just over 20 percent of the state's population.

These are some recent examples of criminal or juvenile cases. However, this has been endemic since we began the online incident report system in 2009.

In Fresno, while -- Yang Kazherd, no interpreter available. Case continued. Defendant states he had to drive one hour to get to court and do it again the next day.

Also in Fresno, Chung Lore, case called without interpreter. The judge used defendant's friend to interpret. People requested an interpreter, and stated it was their right. The judge did not want to wait. In Los Angeles, the case of Suk Kim, even though defendant was present, his attorney asked to call the case without a core reason interpreter. This is the second time this week where other than Spanish case is handled without interpreter despite the court calendar specifically indicating the need. In Los Angeles the case of Mohad, no Farsi interpreter. Defendant's son was sworn in. He did not interpret the witness oath or what the defendant counsel was saying -- a commissioner writes on our incident report, the court ordered interpreters in Albanian, Mandarin, and the interpreter's office could not give an explanation why none was present. All had to be continued to a future day. From January of this year to the present, there

have been dozens of confirmed incidents of no interpreter provided and just for Spanish language. A sampling of the more common remarks, bailiff interprets, no interpreter provided. Understaffing, no availability, attorney acted as an interpreter, no interpreter provided. Juvenile hearing, interpreter acted as interpreter for father in juvenile case. Interpreter not provided, Judge has mediator interpret.

The leading funds for -- deleting funds for interpreters, if monies are specifically allocated for interpreter services by the legislature and governor, the courts are willing to reduce funding level, depriving a significant number of Californians from access to justice. Thank you for your consideration of these comments.

>> Chair Cantil-Sakauye: Thank you, Mr. Ferreira.

>> Good morning, I am the legislative -- based in Sacramento. And we're here obviously to ask that item -- both item 6 and 7 be rejected. By the council. I have the challenge every year to work in the legislature and with the governor and with all of you in other -- and other stakeholders on the court's budget. Certainly these are dire time, there's significant cuts.

The one item which should be talked about as a victory for all of us, especially everyone who mentioned access to justice today is that despite all of the cuts, not only to the judiciary but education, social services u you name it, is that the court interpreter fund, the basal location was left untouched by the legislature. And untouched by the governor. A recognition that the state constitutional requirement to interpreter services and other federal requirements for interpreter services is so important and not quite being met that even in this dire time those two branches of government decided not to cut the fund.

What you're being asked to do today is to take money out of that fund, money that was considered by the legislature and considered by the governor in making their decisions, and to remove it.

Even though there are cases every day where interpreters are not being provided. We are falling short. We should see this as a victory that we have this money available to go to interpreter services.

In trial courts. Instead it's being looked at as an opportunity to shift to another important, perhaps, service. But why would we move it?

Why would we go against the legislature?

Why would we go against the governor?

Why would we go against the policy that this council adopted one year ago, indicating that any carryover money should remain with court interpreters?

And why aren't we asking, and why isn't this council investigating why trial courts are not expending all of the money available to them for court interpreters, especially when you just heard about cases that are happening all across California?

Instead of shifting money out of our fund, let's figure out why that money is not being spent every year when there are needs not being met.

You will hear other reasons why we should not cut this money today. But we also -- I also have to mention that I notice in public comments that the director of finance committed written comments, also asking for this item to be removed from the agenda and not adopted today.

Again, we could stand -- one of the only time this is year we could stand with the executive branch and the legislative branch and with stakeholders and with individuals who we claim we want to provide access to justice, and protect this money. Let's find ways to get it out there in

civil courts and other courts, wherever it's needed. I ask you to reject that item and thank you for the time.

>> Chair Cantil-Sakauye: Thank you.

>> BRANDON SCOVILL: Chief Justice, my name is Brandon Scoville, a field represent for the California federation of interpreters. I'll keep my comments short for my colleagues to speak.

You probably all know that in August 16th of 2010 Thomas Perez of the U.S. Department of Justice sent a letter to all state courts to clarify the civil rights requirements in providing language access to nonEnglish speakers. The letter stated that the Supreme Court has held the failing to take reasonable steps to ensure meaningful access for LAP persons is a form of national origin discrimination prohibited by title 6 regulations. Despite efforts to bring courts into compliance, some state court system policies and practices significantly and unreasonably impede, hinder or restrict participation in court proceedings and access to court operations based on a person's English language ability.

Examples of particular concern include the following: And I'll only read the first one. Number one, limiting the types of proceedings for which qualified interpreter services are provided by the courts.

Some courts only provide competent interpreter assistance in limited categories of cases such as criminal, termination of parental rights or -- DOJ views access to all court proceedings as critical. In the letter Mr. Perez also stated, fiscal pressures do not provide an exemption from civil rights requirements. Many of you probably know that the DOJ has been investigating allegations of violations of these civil rights, such as in Maine where the courts have been required to provide interpreter services to all court functions, and in Colorado, where the same thing has occurred.

After an investigation, the Department of Justice sent a letter to the state of -- state courts of North Carolina. And I will read the six conclusions of that letter.

The AOC's policies and practices violate the nondiscrimination provisions of title 6 and its implementing regulations in the following ways. The AOC I am permissibly restricts the types of proceedings for an interpreter to an individual. The AOC does not ensure that even the limited requirements of current AOC policy are met across the state. C, AOC policy and practices result in numerous types of court proceedings moving forward without any language assistance for LEP individuals who therefore are unable to meaningfully participate in their case. Causing harmful delays and outcomes. D, the AOC does not adequately notify LEP individuals of their right to an interpreter, ensure effective scheduling of interpreters or translate all vital documents. Budget constraints do not excuse the -- with meaningful access to court operations. F, despite knowledge of the adverse impact of its policy on LEP individuals, the AOC has not remedied these harms.

Bear in mind that that letter was written to the state of North Carolina, but it's my opinion that the exact same letter could be written to the state of California. I believe that if the legislature and the governor have made funding available for expanding and improving interpreter services in the courts, that the courts then take that money for other programs and fail to expand or improve interpreting services, they cannot then claim to have made reasonable efforts to comply with the civil rights requirements being enforced by the DOJ. That is what has been happening over the years.

California does have what I believe is one of the country's best network of court interpreters spread across the state. Competent, experienced professional interpreters who are there, ready, willing and able to provide access, like we said, to the 20 percent of the California's population who are not proficient in English. Unfortunately the local courts are terrified that there's insufficient funding and they have been cutting back.

Not even providing adequate covering to the caseload that they claim they will cover. This results in inefficiencies, delays, misunderstandings, and ultimately miscarriages of justice.

Thank you.

>> Chair Cantil-Sakauye: Thank you, Mr. Scovill.

>> I'm Marylou Aaron Gurin. I appreciate the opportunity to address you today. I'm a certified court interpreter and a CFI member, I'm serving on this state bar's commission on access to justice. And through my work with that commission, I was asked to help find an interpreter for a civil case that I think illustrates the issues at hand with this item. And I'd like to share that with you.

Grace Ho, the plaintiff is a disabled, blind Cantonese speaker living in Section 8 housing in San Jose. In June of 2010, Ms. Ho was moved from one unit into another in other housing complex. After relocating she felt things were crawling on her and she developed a rash. She went to her doctor and discovered she was being bitten by bed bugs which she could not see because she was blind.

The housing complex told her she had to throw away a lot of her furniture and belongings in order to get rid of the infestation. They refused to compensate her for anything and she sued in small claims court.

Ms. Ho's hearing was set for April 16th in San Jose. The court would not provide an interpreter. She could not afford a privately retained interpreter, and we could not find a privately retained interpreter who was available.

And we were unable to find a volunteer.

At the last minute Ms. Hasked, a bilingual friend to accompany her -- her friend was not a skilled interpreter, and Ms. Ho was in the dark during much of the proceeding. Noticing that her friend was not interpreting, the judge requested several times that he interpret everything.

But the well intentioned friend could not perform simultaneous interpreting. And the judge eventually gave up and the case proceeded.

Ms. Ho answered questions asked of her but did not have the benefit of hearing or responding to statements made by the opposing party or the judge.

At times she gave lengthy responses that were not interpreted, and at other times the friend answered for her without interpreting the question to her.

During the same morning I observed a Spanish speaking litigant in court without a competent interpreter. Like Ms. Ho, he was unable to fully participate or present his case through the bilingual family member he had brought to court. This was one morning in one courtroom in San Jose.

But this scenario is repeated daily in courts around the state, in civil harassment, small claim, family law, and eviction proceedings. I showed note that some courts do provide interpreters, services in a broader range of civil matters than other E others because they found they can't conduct the court's business competently without interpreters. These courts have been reimbursed from the interpreter budget. Most courts do not provide interpreters for civil cases.

Not because they're not needed but because courts have been told that there is not sufficient funding or that they will not be reimbursed for these services. Yet for the past 8 years available funding appropriated by the legislature for interpreter services has been saved and redirected to other needs. The result is uneven justice and unequal treatment under the law across the state.

The courts are not meeting the full need, full interpreters in criminal or civil matters and it is in your hands to correct this.

A skilled pool of interpreters is in place and available to do this work. There are great potential efficiencies in using us to cover a broader range of language access needs. All funds allocated for interpreter services in this state's budget should remain available for this purpose. It is the upon the of the courts to provide language access in all case types. Cant can thank you.

>> Chair Cantil-Sakauye: Next we'll here from Miss Theresa Molina. She is accompanied -- representing Mujeres Unidas y Activas. [*Ms. Molina presented her comment in Spanish with the following English interpretation presented to the council by Ms. Mary Lou Aranguren, California Certified Court Interpreter.*]

Welcome.

>> Theresa Molina: Good morning.

Hello, good morning, my name is Theresa Molina. I'm with women united and activist women.

United women and activist women is an organization that helps with training for women so that they can become independent. And I have been a member for 16 years. And the reason that I am here right now is that I see the importance of having interpreters.

>> Because I had to go over to court once and they did not give me an interpreter and my daughter had to interpret for me. A girl, a 13-year-old girl.

>> And I don't think it is right or just that our children, our young people should have to sit in court and should have to listen to what's going on in the court. It is not as if you come to court and your case is called right away. They sit there and they listen to all of these things that are going on in the courtroom and they are suffering.

>> It was very, very hard for me to have my daughter in court listening to all of these things, it was very, very sad for her to hear all of the things that were going on in court and to see young people sentenced to 20 years in jail. It was sad for her and for me.

>> And so that's why I'm asking that you make sure that there are interpreters available in every case, in whatever language, because it is very, very important that people understand what the judge is saying and what the judge is telling them.

>> And that's all, thank you very much. Thank you for your patience and for the privilege to be here and to speak to you.

>> Thank you, Ms. Molina.

>> I just wanted to support my friend, that's all.

>> Thank you for being here

>> And thank you for your attention.

>> You're welcome.

>> Next, we'll hear from Ms. Bridget Childs. Bargaining team research attorney, service employees international union, for the Superior Court of California, county of San Joaquin.

>> Welcome, Ms. Childs.

>> Thank you for allowing me a few minutes to speak. That last act is a hard act to follow.

>> But my job is easier today because of all of the people that have spoken before me.

>> I came today to ask you please look at what we call the trial court allocations. I referenced two documents in the letter to you, I'm the primary author of that letter. But I'm not going to talk about the contents of that letter, just to refer them a little bit.

The AOC acknowledges that San Joaquin is one of the most severely under-funded courts, that was acknowledged to us in bargaining and I also attended a meeting of the San Joaquin Bar Association funding committee, Mr. Child attended, he also acknowledged that San Joaquin is severely underfunded.

>> The legislative analysts April 13th, 2012 report, on pages 10 and 11 that certain courts have probably more resources than they really needed, at least before this severe recession. I noticed last night that the submissions were largely from the central valley and the Inland Empire. You know, the problem really is that the inland counties grew very quickly in population, despite certain problems that the courts have to deal with and the courts did not keep up and court funding did not keep up.

I excerpted for you the issue specific to San Joaquin county. And I wanted to point out to you that our unemployment is 14.5%. That was in May of 2012, in Sacramento it is 10.5%, in the bay area, I didn't check but it is 8 or 9%. Stockton is now the second most violent city in California after Oakland, it is first in property crime. I believe our homicide rate doubled because of the layoffs of police officers due to Stockton's bankruptcy. Because of our court's funding situation, when you closed Tracy, we sent domestic and small claims cases to Stockton and civil harassment and traffic cases to Manteca

>> We sent that to Stockton. What has happened to our courts affects the most vulnerable members of our society, and if we were to have an earthquake today, right now, hopefully we would all go out of the building and somebody might come in and look around and see if there were any cracks. If we weren't sure if we could come back in, they would send in a structural engineer and the structural engineer would tell us whether we could come back in or

not. It doesn't matter that you're the Chief Justice, that's not your call, it is the structural engineer's call, because that's an issue about health, safety and welfare of the public. The courts also have a duty to protect the health, safety and welfare of the public. They have an additional duty to protect our constitutional rights. But the cuts that we are seeing in the courts are -- what they are really doing is what I'm concerned about is they are going to really hurt children and elderly and small businesses. And so I really wanted you to ask you, even though I know it is very difficult, and it is going to be very difficult, please you have to look at the allocations, because when you look at -- when you look at the report, it is an AOC report, March 22nd, 2010, and on page 3 of that report is a map, a series of maps of California. I also reference this in my letter. Figure one, impact, fiscal use 2004-5 through 2009-10. This is what you see. Wherever it is green, that's pretty good. Wherever it is red or orange or yellow, that's not so good. I don't know whether it would show today, except I know it would show in San Joaquin county. It is pretty clear what's happened from this map, and that is another argument and it is your own documentation as to why even though it is such a difficult job, please, you got to look at the allocations, thank you very much.

>>Chair Cantil-Sakauye: Thank you, Ms. Childs.

>> I extend a thank you to all who spoke here today. All of us are painfully aware of the difficult challenges faces all of our 38 million Californians, and rest assured that your concerns have affected all of us as we move forward in this difficult fourth executive year of an austere budget. We now turn to the presentation of item F. I invite David Rosenberg to begin.

>> Thank you, Chief Justice. Members of the Council. We are scheduled for 40-minute presentation, but the good news is that it is going to be more like 20 minutes to enable the Council to have plenty of time to discuss. I'm going to talk for five minutes or less. My co-chair Zlatko is going to take about 15 minutes.

>> I don't know why the Chief Justice and Jody were angry at me and asked me to co-chair the trial court presiding judges working group. I was merely the brawn of the working group. They have an impossible task because there are no happy solutions. Let's start with that premise.

>> Members of the group were distinguished presiding judges and CEOs and I just want to take one moment to name them because they put and will put a lot of work into this. Among the co-chairs were Zlatko and myself, the presiding judges, Christiansen, Sacramento, Lee Edmund, Los Angeles, Sheryl Ellsworth Riverside, Deborah givens. James La Porte, Santa Clara, Dean Stout, Inyo. Mike Roddy of San Diego.

>> The CEOs who were on this working group were Alan Carlson of orange, Jeanie co gill.

>> Jack Clark of LA. Steve Nash, San Bernardino, Mike Roddy, San Diego. Taylor, Salono.

>> We had two non-voting staff members, Curt Childs and Curt Soderlund on the working group.

>> We had one telephone conference of the working group to determine issues, we identified at least 20 issues, actual may maybe more. To deal with, we've had one face to face meeting, a long meeting, we have another one coming up in August. These meetings were open. Many, many, judges, CEOs, staff members, members of the public were observers of these meetings, both by phone and by person. I was very proud of the members, because they approached their tasks primarily with a statewide perspective. Very easy to approach this with a very limited perspective of what's best for my court, I sense they approached it with an overview of what's best and what can be done. The items were fully discussed and voted on.

>> We'll bring it back to this Council in August. Are there inequities in the proposals?

>> Absolutely. There are inequities in the proposals. Yes. But it is inequitable to reduce the trial court budgets for the current year and the past years, that's the reality, it was inequitable for the department of finance that say all are to be swept. We played the cards that were dealt to us, just like you're going to play the cards that are dealt to you, our discretion was very limited and very narrow. Can we respond to the gross inequities. Certainly we can do that. There may be other ways to approach some of these inequities, but I think what we're going to present, what Zlatko is going to present to you is the best we could do after considerable discussion.

>> Thank you, Judge Rosenberg, and I do support your and leadership at the meetings, I think we endeavored to make them as open and transparent as possible. There was a tremendous amount of information that we provided but we felt that it was important in these times of fiscal crisis that everybody understood everything that's on the table, so there's no sense that of anything that we did not present to the group. Just a reminder of the unfortunate budget cut of 540 million dollars dealt with in part by a transfer of 240 million dollars from construction funds, and then 300 million dollars which ultimately was offset by some transfers of the AOC budget of about 285 million dollars intended to be addressed through a fund balance at the time.

So what we have before you are a number of issues related to how those cuts will be allocated. The budget delineates 235 million relative to fund balances. 150 million based on trial court allocations, I'll remind you that the budget does anticipate that fund balances will be brought down to 1% of operations by the 14-15 fiscal year, there's a tremendous amount of work that we need to do to about the need for greater fund balances. As judge Rosenberg did say, we had little leeway. We redirect and offered redirections as much as possible to help offset the cuts. On page 2 of your item, there are the summary of the recommendations and page 17 is where you can see a summary of the actual numerical implications of the recommendations that are before you. I did want to take a moment not to get too technical, but I think I wanted to put in perspective what this budget means to the trial courts and I would direct your attention to page 29, attachment G.

This is a historical perspective on the budget reductions that have been taken by the trial courts, and I won't go through the details of how we arrive at the numbers. Under column C, row 29, shows what in the 11-12 fiscal year the trial courts were facing in terms of reduced allocations, 214 million dollars. So you know you've seen and heard about the tremendous impact that that level of reduction has had on the trial courts. That is reflective of many offsets

and redirections that were taken. As we look to column D and line 26, we see that number grows to 540 million dollars. It is a tremendous reduction to the branch and that is reflective of whatever redirections that we could offer to mitigate the cuts.

While it is not good news, the only good news in the entire package there is that the 13-14 fiscal year is not as severe as the 12-13 fiscal year and therefore the reductions are reduced to the trial court, so there's some relief. But that still means that there's a substantial reduction to trial court funding of which we'll have a significant, significant impact throughout the branch. So with that I want to move to recommendation number one. This is where we start -- this is the base allocation, basically we're recommending the recommendations of the working group were such that we were to carry forward the 11-12 allocations for court operations. There was no issues there, merely just taking the prior year's levels of allocation as our starting point as you can see on attachment A.

So there should be no issues in there. There is included a recommendation for allocation of new security funding that was provided to the branch to remedy the errors that were made when realignment occurred. So the part on the finance did recognize errors that were included in the 11-12 budget act. We are recommending that be distributed to the courts that did have the problem. I would say with reference to some of the testimony regarding the security issues and the fact that there's some inequities there, this is where they are recommending that the adjustments be made. At this point, I'll just proceed as the agenda suggests.

Recommendation number two.

>> I know you want to proceed, but I think I would prefer to have questions as they come up.

>> Certainly.

>> So we can track the recommendation. Recommendation number one, are there any questions or comments?

>> Judge Baker?

>> Can you expand on what you said about Shasta and Trinity?

>> I thought they were referring to recommendation number four?

>> Could I just comment on that briefly. Zlatko, you can take over.

>> Those courts have submitted alternative one, which shows a different breakdown. And that is certainly within the purview of this council to adopt that as an alternative. I just note to the extent that you push a button here, a button pops out somewhere else. So most of the courts that are affected are affected in a very small way, a thousand dollars, two thousand dollars, three thousand dollars, you will note that some courts will be affected like LA with 90,000 dollars.

>> I can save my questions until we get to recommendation number four, maybe that's the appropriate time to make my inquiry, but I definitely have questions about that presentation.

>> Sure

>> And the attachment that was submitted.

>> I'll make sure to address that when we get to recommendation four.

>> Justice.

>> On that same point and maybe it will become evident as the presentation goes along, but on page 3, the rationale for recommendation one, we all see that there was this 3.6 million dollars that were incorrectly transferred to the sheriffs, and then returned as an augmentation this year, and there's a reference to attachment A, column C, which help me, appears to me to be spreading out that augmentation, that 3.9 million dollars, but I don't see -- I don't see Butte county have any of that money, is that being dealt with another way.

>> The situation is when funds were transferred from the branch to the realignment sheriffs pot, they did not have their money reduced. The unfortunate issue is that their sheriff money was left in their budget, whereas sheriff funds for the rest of the courts were moved into the realignment pot. So the error was we were fixing -- money that should have been retained by the court, this is a case where the court retained money that should have been moved, that was an error on our side.

>> Okay.

>> Any more questions regarding recommendation number one?

>> Number two.

>> Number two is related to reassignment funding. The budget includes a total of 9.2 million dollars and the budget working group recommended unanimously to adopt the recommendation of the working group to allocate on a one-time basis 9 million 73 thousand dollars related to the workload in the same fashion it was allocated in the 11-12 fiscal year, still a lot of unknowns in terms of what the actual caseload would be. A difference from last year's process, they are recommending a reserve of \$150,000 to address any courts that may over expend their share of that nine million dollars, there were some courts this year that did fully ex-spend the amount of funds that were provided. So with that, there were no issues and that was adopted unanimously by the budget working group.

>> 150,000 doesn't sound like very much compared to nine million. How was that amount arrived at?

>> I could answer that.

>> I chaired that subcommittee, the total that was claimed by courts that said they overexpended was about 22 -- it started out at 50,000 and it went down to \$22,000, we felt that \$150,000 in light of that was more than adequate.

>> Thank you.

>> Number 3.

>> Yes, number three is related to the allocation of \$235 million of reductions related to reserves, fund balance. I'll give you some context, the current estimated fund balance as of yesterday, which has been provided as a handout was 550 million dollars. In comparison to last year which was 562 million dollars. The budget -- the statute requires that they make allocations in July and revisit them based on final numbers. You have a recommendation to take the fund balance totals as they are yesterday. And make a preliminary allocation, because there's some courts that are yet to fully close their books. We may have some revisions to the distribution of the revenues -- or the cuts relative to the reserve amounts.

So this was an issue at the budget working group, which had a lot of discussion and you've heard from representatives from Inyo about the fact they held funds in reserve for construction, we heard from Santa Clara, we know there's a number of courts that have held long-standing monies that they were holding for construction. But the discussion also brought up the fact that a lot of courts were holding money for lots of different purposes. Would there be any ability to start to segment the fund balances into some discrete pot and hold them aside. The conclusion was we reengaged the department of finance as to whether or not there was a belief we could redefine what fund balances are, they were steadfast in their position that fund balances, that it is the entirety without regard for what it is previously designated for. So we believe that consistently with that, we have no ability to make any adjustments to account for problems that have been created by having these funds set aside for things like construction.

So on a 25 to 1 vote the budget working group recommended that we adopt a preliminary allocation based on yesterday's numbers and that we do an update as required by statute once we get final numbers relative to fund balances.

>> Judge De Alba.

>> My question is, how were you able to determine with any accuracy the amount of the fund balances?

>> These are the amounts reported by the courts in our system, so --

>> My previous understanding and why I raised the question was that I thought the books of the 58 courts don't really close until a certain date and we historically didn't know this number until August.

>> Right. And the recommendation is a preliminary allocation today and then we come back based on when all of the courts are closed. The statute requires that the Council makes allocations to the court in July. Since this was a substantial reduction we felt it needed to be included in the allocation. We do need to get the allocations out as soon as possible because courts need to plan. So this is a major allocation of cuts, so that's why we have a second look as

envisioned in the statute.

>> At any given day we can look at what those fund balances are as they tend to tweak a little bit as they continue to close. There's one court for legitimate business purposes have asked for an extension to September 9th for closure, and that has occurred as an annual event. At that point in time we'll know what it will look like for fund balances. Then we'll have to go back to the Council then and revisit that issue. We don't expect a lot of substantial changes far from it based upon the numbers as we've seen them today.

>> One thing I heard from more than one CEO was, just tell me what the number is. They want certainty. No matter how ugly it is, they want to know so they can plan.

>> Commissioner Alexander.

>> On page 5 of the report at the top, it is under when you're going to talk to the department of finance. At the beginning it says that they made no distinction between unrestricted funds that were not statutorily defined and then when you talk about the facility funds, you say you're asking them because they were statutorily restricted, that's on the top of page 6. So my question is, are the funds that are allocated for construction, are those different than the -- are those different than the other funds -- because they're statutorily restricted as opposed to not statutorily restricted?

>> Yeah. There are distinct -- there are some that specifically in statute, you can only spend them on X purpose. Whereas these funds while designated locally, not statutorily restricted.

>> And towards that end, we have a meeting that's set for next week. We're going through what we call for, lack of a better term, some modeling exercises in terms of looking at what cash flow -- ahead on the calendar, to the end of the '13-'14 fiscal year, and what would the budgets look like for each of the 58 courts based upon the 1%. We're going to do additional scenarios at 5, 10, and 15%, and what we're trying to model is, we know what the historical expenditure patterns are for each individual court, and from a bean counter's perspective, we think that's the only opportunity that we're going to have to talk with the department of finance to try and further educate them about what's going to happen from a cash flow perspective, which we think we'll have some dramatic effects, as well as further opportunity to talk with them about the legitimate restrictions that are in fund balances for each of the 58 courts today as Zlatko indicated. There are legitimate business reasons that all 58 courts can articulate for why some of those funds should be restricted.

>> There will also be some non-bean counters at the meeting. They'll be a couple of PJs and a couple of CEOs participating as well.

>> And I think some of the discussion in the agenda are the report -- the first two looking it he reserves for the purposes of allocating the 235 and the other discussion is whether or not they would include, as we look forward to the 1% statutory and they are saying until such time as there's relief from the statute that if you have to hold it, then it would count again --

>> Did you say would or wouldn't count?

>> At this point it would count at part of your 1%. Which is why we have to actively engage the department of finance and the legislature on redefining the statute that they adopted regarding fund balance policy.

>>Chair Cantil-Sakauye: Justice Ashmann-Gerst.

>> I just a question as a follow-up of the presentation by Judge Lam. Do we have any idea how many courts were given assurances by the AOC previously by the prior AD that funds would be available for certain kinds of projects, for their construction, or whatever?

>> I don't have an inventory, but I think we can get that for you.

>> There are courts that entered into certain agreements, for example, my own court entered into contractual lease agreements as a result of being asked to do so in prior years. Virtually every court can give you an explanation of why certain parts of their fund balances should be exempt, and give you a very good reason for it.

>> And it goes beyond facility issues. Some of the facility issues can be Santa Clara -- among those courts, there are other legitimate infrastructure projects that have been out there for case management issues that Judge Herman and Judge Moss are currently dealing with in terms of how to move forward with the technology plan as Judge Rosenberg had indicated there are legitimate arguments, there are pension obligation bond obligations, there are certain courts that have to leave 2% of their -- two months of payroll, as an example, I know for Sacramento and Orange County with the county at this point in time those are obligations you cannot overcome or work around.

>> This is a very important point that you raise, Justice Ashmann-Gerst. We didn't know how to slice and dice it any further. There are dozens and dozens of good reasons, and so we just took a statewide perspective, that was what the vast majority of the trial court budget working group wanted to do and followed the direction of the department of finance on how we approached this.

>>Chair Cantil-Sakauye: Mary Beth.

>> Just a clarifying question. Did you say you were going to continue to have discussions with the department of finance on issue of what would be an appropriate restriction such that we would not have to allocate the reduction to it, or are you looking at next year?

>> The future years as to that 1%, that is the issue at this juncture that we need to work on.

>> So to be clear, there are two issues we'll be talking with the department of finance with; one, is an education on fund balances and legitimate restrictive allocations that need to be looked at. Good example is the children waiting room allocations, the money can only be spent

for those circumstances right now today using the 1% target looking forward that you would automatically have courts that are in violation of the law. Those discussions have to take place with the department of finance. The other is on cash flow, and in previous meetings the collective staff with the department of finance, they are aware of what might happen if courts cannot pay their bills and that's why we want to go through the bean counter exercise with them say these are the possible outcomes that you're looking at down the road.

>>Chair Cantil-Sakauye: I think we're ready to move on to an explanation regarding recommendation number four.

>> Recommendation number four is related to allocation of 150 million dollars in reductions based on the court's share of it's '11-'12 total statewide trial court trust fund based allocation. There was quite a bit of discussion at the meeting regarding this particular issue, and as far as could we do any exclusions from the base, could we make any adjustments like the issue of security so that we could try and address some of these inequities and the collective agreement and since this was unanimous was that we have to follow the letter of the law, and therefore, the trial court trust fund based allocation includes those funds, and therefore there was no opportunity to deviate from the law with respect to this allocation.

>> Notwithstanding the fact there was a recognition of the concerns of the security funding being left in. So Judge Baker, I think they brought it up here because this is where -- for example, when we looked last year when we did allocations, we excluded security to try and bring courts on equal footing to try and account for some of these issues. This year, we are restricted, based on the law, from doing it with this 150. You'll see later on, we did use that methodology to account for the differences, but we can't adjust what is allocated in number four, that's why I referenced it as part of number one is that the Council could look at the base allocation to account for this particular issue.

>>Chair Cantil-Sakauye: Judge Baker, then Judge O'Malley.

>> All right. Lest I forget to do so later, I think a lot of us should -- I speak for a lot of us when I say how grateful I am for all of the hard work that went into putting this very detailed report together --

>> Judge Rosenberg.

>> Use your mic.

>> Since you're going to mention my name, use your mic.

>> I don't know what you did to make the chief so angry at you, but I really do appreciate that.

>> With respect to the issue we're talking about insofar as security funding, and this is something I'm knowledgeable about, because I used to be the presiding judge in one of these counties, Shasta County, and I know that historically, we have a non-included security funding

from this kind of budget cut, and I sense that you acknowledge that that's the case by virtue of some comments you've already made with respect to Butte County, how there appears to have been some error insofar as sheriff money getting confused with their baseline. So I think you acknowledge that historically we have never done this before, and in terms of following the letter of the law, I don't think that the legislature has mandated anything about our allocation here, they appropriate, we allocate. So are you telling me that you think that we're precluded by law to exclude net security funding from Shasta and Trinity as we have historically?

>> The budget act with respect to allocation of the 150 million dollars is prescribed. We discussed it and we eventually, reading the specific language of the budget act, it says it shall be on the trust fund allocation, with no adjustment.

>>Chair Cantil-Sakauye: Judge O'Malley --

>> But we have discretion looking at the base allocation to address some of these issues.

>> So Zlatko, that's my point. If this body were to consider -- if this body were to consider taking into account Shasta, Butte, and Trinity's situation, the authority to do so would be under option one.

>> Yes.

>> Not option four from the 150 million. So the change of allocation that was requested by those courts we would have the authority to do so under option one. So in voting potentially to consider that, it would, again, be under option one, and that would be the lawful, legal authority to be able to do so.

>> And could I just ask Zlatko, is another option available, consideration of making adjustments to those three courts through the use of the 2% --

>> Since we still haven't figured out the process on that, it would be something we would consider in our discussions of how to develop that process.

>>Chair Cantil-Sakauye: Judge Kaufman.

>> Zlatko, is that -- that's a wish and a prayer, okay? In other words, if we do option one, as Judge Baker wants, as the three -- said, this would be guaranteed?

>> It would be done, yes.

>> As opposed to saying in the future maybe we'll do something if we can, if we have enough money, and all of that. Okay.

>>Chair Cantil-Sakauye: Okay. Thank you.  
Option -- recommendation five.

>> Yes.

>> The budget -- (Inaudible) -- bill provided for a 2% holdback of the trial courts proportion share of their appropriation for the purposes of addressing unforeseen budget shortfalls and that nature. So the first process that we're engaging here is that we have to calculate how we're going to bring that money back from the trial courts, to hold it in this statewide reserve. So while the calculation is specific, and that's how we arrive at the 27.8, it was not specific in terms of how we can pull that money back from the Court's allocation. So there was flexibility in this regard. There was a healthy discussion regarding this issue at the budget working group, and the vote was 17 to 7 with 2 extensions reflective of this discussion. The discussion was, should we remain consistent with what was done in recommendation number 4, which was to include all of the funding, but this was where it was recognized that there is this security indifference and therefore, when they looked to allocate this reduction, we excluded the security funding to make it equal footing.

>> I would note that --

>> Could I just add, and that was done because the majority of the trial court budget working group on this item felt it had the discretion and had the ability to do so. Whereas previously we were restricted by the law.

>> I would note that the law provides that all of this funding that is pulled back, eventually goes back to the trial courts.

>> So it is a wash, it is just a matter, it may result in a redistribution because of those courts that may come forward asking for funding, and I'll skip ahead and just state that we are working on this process. We felt it was too complicated to bring to the Council at this point to have you vote on a new process, since it took us a full Council meeting back in October to talk about how the urgent needs funding, the supplemental funding, so that's in the process, and we have a collection of eight CEOs and PJs who are on that working group to come up with another process for you.

>> And 2% committee met yesterday via conference call and there were some charges that were set forth and we'll be getting additional data at the close of business on Tuesday, and we're in an interactive mode with the representatives on the 2% committee.

>> So are there any questions?

>>Chair Cantil-Sakauye: Turner.

>> So I just want to make sure that I'm clear, so we're talking about the three courts in particular that are adversely affected by the security funding problem, Butte, Trinity, and Shasta. Unless this Council fixes the base allocation for those three courts, such as in recommendation one, as you talked about, Zlatko, even if we are prepared to try to address it in the 2% holdback, it would require that that be done each and every year, right? To create a structural change so

that these issues are addressed and laid to rest, put to bed permanently, we would have to make an adjustment in the base allocation this year in order to not have to climb this hill every year.

>> But we would revisit it -- we would have to revisit it next year, because the reduction is less and so the amount of relief would change because we're only looking at the '13-'14 reductions are 121 million. But it is something -- yes, at some point when you have a budget that's based line, you have to make a permanent adjustment so that it is addressed on an ongoing basis through the base allocation.

>> Which is option one.

>> Which is option one, which would be to make an adjustment to recommendation number one to account for the inequities that were caused --

>> Right.

>> -- by the three court problem.

>> Okay.

>>Chair Cantil-Sakauye: Mary Beth.

>> Again, a clarification. Recommendation one sets the base for '12-'13. The 150 million reduction is based on '11-'12; is that correct?

>> Right.

>> So if we would be adjusting the base in '12-'13, so that we fix it in '13-'14.

>> We would be fixing it for '12-'13.

>> That is what we would be contemplating.

>> Fixing it for this current fiscal year.

>>Chair Cantil-Sakauye: Recommendation number six.

>> Yes. Number six was the -- (Inaudible) -- the budget working group to look at ways to offset the cuts to the extent possible and staff looked at updated fund balances in the trial court trust fund, and only in the trial court trust fund, because we have no authority to use any of our other funding sources to offset trial court cuts. In the '11-'12 budget act, the Council is given the authority to look at every item of appropriation and how it allocates the cuts and look for other funding sources that could be used to offset the cuts. This year, the administration took a very prescriptive and direct approach in its proposal in the May revision, and specifically scheduled the cuts and did not propose to provide the Council the authority to make any transfers from

other items in appropriation. So we're essentially left with what money do we have in the trust fund that we could use to help increase the allocations to the trial courts.

So in looking at our -- as we were closing our books on the trust fund, staff had seen that revenues were higher than anticipated as they were closing down and that expenditures were less, so that meant that your fund balance goes up. You spend less and you have more money, your bank account is higher. Then we had to look at that relative to the level of appropriation that was provided to us by the legislature. So what we have is we have a recommendation that essentially exhausts our appropriation authority such that we can increase the allocations and offset the cuts to the tune of 58.9 million dollars. 41 million of that amount is related to just this issue of additional revenues and reduced expenditures.

There is the issue that was discussed by a number of the public testimony regarding the interpreter funds, and then there was a part related to unspent jury funds. The issue that I would like to address with respect to the interpreter issue is that it is not a reduction in the level of appropriation, it is a matter of the fact that there have been unspent funds that then go into the trust fund and therefore are available to the branch to the extent that it can fund additional allocations within its budgetary authority.

Does that sound too confusing? Your checkbook -- you have a credit limit, and we have money in the bank to go to the full credit limit, that's sort of essentially what it is. We have money in the bank to fully utilize our credit limit. These are just unspent funds that go into the fund balance, while there is Council policy, there's no statutory restriction on our use of fund balance in the trust fund.

With respect to the jury, it's just a matter of the expenditures have been less than anticipated and there's the ability to reduce that level of expenditure. So all totaled, we have -- estimating almost 59 million dollars this we could use to offset trial court cuts.

Let me combine that with No. 7 so that we can be -- we can discuss in total.

There is a potential we would need -- there is a provision in the budget act that allows the branch to go back to the department of finance and the ledge late it your to actually increase that credit limit, that appropriation. It's revision 4 of the budget act. Says if we have additional resources, we can ask for additional authority. So we were in recommendation 7 was getting authority from the council to the extent that we have a need to ask the department of finance in the legislature for additional authority that you would give us that -- accept that and we would be authorized to do so.

We get this e-mail from the director of finance, and let me explain why I think that was sent.

>> Yesterday.

>> Zlatko Theodorovic: Yesterday afternoon. When I talk about the authority that is included in the budget, there was an error on the part of the department of finance. And the legislature.

Without being too technical, money -- authority to spend money was moved from the trial court appropriation and to the council AOC budget because that's where it had been historically spent, in its effort to pry greater transparency they wanted to show where the funding was being

spent out. So they moved 29 million dollars of authority from one item of the budget into another item of the budget.

Except they didn't reduce the authority in the -- in the trial court appropriation.

So we had informed the department of finance of that issue, but in terms of looking for every option to offset the cuts, we utilized -- we were proposing to utilize that authority fully. Notwithstanding that it's an error, it's our legal authority to have that.

So they want to discuss with us the issue of that authority and they also have some questions about whether or not our projections and how we have 60 million dollars available to offset cuts -- they want to go through that process and discuss that with us.

So asking to defer that -- those two issues for a later date.

>> This is completely new information that came up after the trial court budget working group met. Where the director of finance is asking us to defer any action on 6 and 7 based on what they -- they deem to be their error.

Without commenting on that directly, I would certainly recommend that we do defer. We're going to be dealing with a number of issues relating to the trial court budget in August anyway. And I think we have to respect the department of finance and the administration to have that discussion with them.

I think it would be a mistake for us to plow on and make a decision on this. And I'm speaking in my own capacity, not for the trial court budget working group. Because this came up afterwards. I think it would be a mistake to plow on and make a decision on 6 and 7 when they have asked us to defer. I don't want to win the battle and lose the war.

>> Chair Cantil-Sakauye: Jody?

>> Jody: And piggy back a little bit on what Judge Rosenberg indicated, we have scheduled a meeting with the department of finance regarding the e-mail that we received yesterday. Our meeting as -- is scheduled for early next week. So I whole-heartedly agree with you, Judge Rosenberg, that deferring right now until we can clarify all of the funding is really, really important.

>> Chair Cantil-Sakauye: Thank you. So technically my suggestion is this is not really before us. Adoption of the recommendation 6 and 7 is not mandatory. So council will defer 6 and 7 with a report back by the same panel in August.

>> Hon. David Rosenberg: Correct.

>> Chair Cantil-Sakauye: Judge De Alba.

>> On 6 and 7, I respect your opinion about deferring. Are you suggesting, then, that we not even talk about the interpreters -- there was reference about \$6.5 million and prior fiscal years and augmenting for this year. Is that futile to talk about that now?

>> Hon. David Rosenberg: I would suggest that -- no, the council can talk about anything they want to talk about. But I would suggest that it would be worthwhile to defer that discussion. Because frankly it may be completely moot. In other words, if 6 and 7 are off the table, then

there's no point in discussing it at this time. We have plenty to discuss.

>> Chair Cantil-Sakauye: Yes? Kim Turner?

>> Kim turner: Can I ask at the next council meeting when we are prepared to discuss this, I think it would be helpful for all of us -- I have a recollection which may be wrong, but I'd like to have your office validate it.

That every year we've had surplus funds in the interpreter funding stream. And that we have never actually fully expended all the dollars in that are -- that have been allocated to the interpreter fund. But I may be wrong about that, I'm not sure. I'm wondering if we can take a look back, since we established that fund, which was probably after SB371 -- is that when we actually separately appropriated money for interpreter, Curt?

>> Curt Soderlund: That needs to be looked at. But the point is --

>> Kim Turner: The expenditure levels and revenues in that fund are, I think it will help the council to understand better the issue related to interpreter funding.

>> Curt Soderlund: Agreed. But no one is proposing cutting interpreter funding.

>> Kim turner: No.

>> Curt Soderlund: To avoid any misunderstanding, the proposal -- which may be moot when we come back -- the proposal dealt with how to deal with unspent monies.

>> Chair Cantil-Sakauye: That's right. So No. 8?

>> No. 8 is the result of the discussion regarding security funding and the fact that in recommendation No. 4 when security funding was included in the cut, that we should unrestrict the funds so that to the extent there are ability to save in that line item, that there would be the ability to do so.

I would note that department of finance has raised a concern regarding unrestricting security funds. Because as I mentioned in issue No. 1, they -- the budget reflects an additional 3.6 million dollars. And they supported us and augmented their -- to fix a problem but they augmented our budget by 3.6 million dollars. And then to see the council turn around and unrestrict those funds gives them some reason for pause and concern.

In so much as if we come forward with future requests for funding, that, you know, heaven help us if they fund it, that we would then just turn around and spend it on whatever we want. So there is a concern about it going into the pot and being spent on something otherwise.

So they felt that that was a bit inconsistent.

>> And if I can add to that a little bit, the concern is exactly how Zlatko couched it from the department of finance. But for this funding here I think they understand the request was not to modify this, but I think it's very important for us to bear in mind in the future when money is allocated to the judicial branch for specific purposes, that the trial court budget working group and the council needs to just recognize, I think; and that's their request, that if it's pegged for a certain source, it remains for that source. And that is a fair request, I have to say.

So...

>> Chair Cantil-Sakauye: Judge baker?

>> Judge Baker: Thank you, chief. That last statement appears to me to be consistent with the Shasta, trinity and Butte issue. It's -- it appears to me that what you're saying is that the legislature -- that their legislative intent was to have -- to tightly control security funding. Obviously the Shasta and trinity should -- there's security budget should be cut at the same time and in the same percentage as all the other courts throughout the state. But to include security in their baseline figures I think would -- would create something that the legislature did not intend to do.

>> Chair Cantil-Sakauye: Justice Hull?

>> Hon. Harry Hull: Thank you, chief. Listening to the discussion, it does appear there's inclination among members of the council to amend or modify recommendation 1 as it relates to trinity and Shasta and Butte counties. The technical part of that, how would a motion such as that properly be framed?

>> I would say that you could move to adopt the recommendations of the trial court budget working group with the following changes, item 6 and 7 would be deferred, and then as to item 1 you would move the adoption of the chart shown in alternative 1, that Zlatko's staff prepared. That would be an accurate reflection of the changes.

>> Is that a motion?

>> I'd make that motion.

>> So moved.

>> I'll second.

(Chuckling)

>> I'll second it.

>> Chair Cantil-Sakauye: Zlatko, is that the proper way to state that?

>> If Judge Rosenberg says it --...

(Laughter)

>> Zlatko Theodorovic: No other reason to disagree.

>> Chair Cantil-Sakauye: Sounds like in terms of the base -- I think Judge Rosenberg has made the motion, seconded by Judge Ira Kaufman and Justice Hull.

>> The intent is to modify No. 1 to incorporate the changes that were set forth in the document that Butte, trinity and Shasta provided. Which would increase their budget by that amount as set forth in their alternative.

>> The document -- the basis for the document was provided by those courts, but the document itself I believe Zlatko's staff prepared.

>> They asked us to help them. So we provided some assistance. And Steven did do it from his computer this morning.

>> Chair Cantil-Sakauye: And so we're clear, it is the handout that's marked alternative No. 1. But preceding that phrase is not really accurate. One time reduction of 150 million -- we're disregarding that language but taking up the alternative No. 1 with the chart on the right, D, E, and F.

>> If there's not any further discussion, we're prepared to vote on this.

>> I would just like to make one comment. I think that the working group did an excellent job. You a problem whereas one thing pops up, another thing pops up

>> Like whack-a-mole.

>> Never had one of those.

>> With the three counties, we also have the things with the Inyo County and that, as a policy thing, I think we should try to go with people around the state and address these issues with different backgrounds and different needs and I would just suggest that we adopt those recommendations. I have no idea who benefits from which ones of them, but you did your best to try to keep the balls bouncing in the right way, or knocking too many people down or up, I don't know.

>> The chart shows -- who gets benefitted and who gets dinged if you will. And some are very small and some of them are more substantial.

>> I have, I guess, a comment and then a question about the motion. I support the current motion by Justice Hull.

>> I would prefer that it is justice Hull who raised the point and he should be making the motion for a couple of reasons. He just asked me to how to state it.

>> Right.

>> And two, as co-chair of the working group, I have to defend the work of the working group.

>> We spoke at the same time, but I would be more than happy to make that motion.

>> Judge Kaufman remains the second.

>> I guess the question to begin with, respect to the current motion, which I understand.

>> Does that make moot recommendation number 8. Was it part of the motion?

>> It wasn't part of the motion in my mind.

>> There are 38 courts that have security -- that would be impacted by recommendation number 8 and recommendation number 4. Many other courts that have security within their budget and this allows them to address the cuts.

>> I understand. I have no trouble with it. I guess the last thing I would like to say, I just wanted to comment similar to Judge Elias. I was very moved by the opening comments and, you know, these budget cuts, they are very sad what they are doing, and it is clear, I think, that we're not just suffering a financial crisis, but really a constitutional crisis. Our ability to provide equal access to justice throughout the state is greatly impaired by our current financial situation.

>> I think we all understand that and it is something I'm grateful all of us have dedicated our careers to correcting if at all possible. I wanted to follow up on one comment made by Kim Turner, and I don't know if this should be sort of a piggyback to the motion or not. Especially in the light of the fact -- I mean, I see the current move by the legislature is a little bit of see change, insofar as micro managing our authority to allocate, and the Shasta, Trinity situation is probably only one of what may be a number of examples where we're going to run into complications because of that. Taking just alone the Shasta Trinity issue, how do we -- I'm not making a piggyback motion at this time. But how do we deal with that in the future. Because there's still going to have marshals offices and we need to fix this problem, so we don't have to have this discussion, this debate, this use of time every time July comes along in the future. I don't have an answer to that, maybe the answer is a piggyback motion.

>> One would fix that.

>> It would permanently fix that, it would be in your budget. Yeah, done.

>> That's what we're trying to do, right?

>> Right. That's what we're trying to do.

>> Yeah.

>> With the adoption of the --

>> Essentially, I think as stated, why do you have these options when every year we do the same thing. I take this as now this is essentially a recognition of this issue, that's already an assumed adjustment that we would have to account for. That way we are now informed of the Council position. If the Council is going to do that -- they're not going to do that so why include that as an option.

>> Before we vote, I want to also recognize that I think we're all grateful and proud of the leadership of the trial court group. These were delicate issues and all of us knew based on the discussions that had been had in the legislature that the hard part was left to the trial court budget working group to figure this out with everyone having an interest. I am particularly excited to know that the budget working group really took a statewide interest, even though many, many interests for every individual county were at stake. How it has been discussed here and presented here is really not reflective at all of the meetings and conference calls that I know occurred and the discussions and the give and take back and forth, so bravo in my view.

>> Including the allocation of the 2%, we're still working hard on the fund balance issue with the department of finance, and I think that judge Baker's point it is not just the legislature see changes, the department of finance and the governor's office are much more active beginning in April of this year with our budget, therefore I think we have to be actively engaged with them not just our legislative partners.

>> In August, the special funds will be the major issue being brought back before the Council.

>> All in favor of the motion say aye.

>> Aye.

>> Aye.

>> Request for clarification.

>> Please.

>> I want to vote against the amendment, but I want to vote approving the recommendation of the trial court budget working group. As its set up now how do I do that?

>> You would have to abstain or vote against the motion.

>> Your position is recognized.

>> I think that the trial court budget working group spent a lot of time on this and their recommendation should be approved and I wanted the opportunity to do that, this vote doesn't give me the opportunity to do that, I would vote against any amendment if that's a vote against approving the other recommendations in the trial court working group, that will be the vote.

>> It is one no vote and the balance in favor of the motion?

>> Correct.

>> Thank you.

>> I'll abstain

>> And one abstain out of Judge Elias.

>> I approve of all of the other matters, I just believe we're setting a precedence and we should let the budget work, the budget committee did an excellent job and we should move on with them.

>> So noted.

>> Our matter of morning business is finished and so we will stand in recess until 1:05 when we continue our other two items. Thank you.

>> Thank you, everyone.

[Lunch recess]

>> Chair Cantil-Sakauye: We'll start on our afternoon session. Ask everyone to please quiet down. I apologize to the presenters and to council for my delay. Thank you, Judge Power, for being here for item G.

>> Hon. David Edwin Power: Thank you, Chief. My name is David Power, a Sloan County Judge. I've been the chair of the working group since 2008.

The working group's key -- the -- the working group's key objective is to implement the policy adopted by the judicial council in April of 2009 which established a prioritization methodology for modification to court facilities. I am here today to request that the Judicial Council adopt the revised trial court facility modification policy. The core function of the policy will remain if the council adopted the revised policy today. The review, prioritization and funding of facility modification projects for the 500 court facilities statewide subject to increased reporting of our ranking and funding decisions to the E and P committee and to the council.

The revised policy will continue to delegate to the working group the authority to reallocate funds remaining in the planned facility modification allocation after all plan facility modifications have been completed among the three other FM budget categories.

Facility modifications typically involve additions of new systems, equipment and other components that are not otherwise existing in a building. They may also involve alterations or renovations or refurbishments to existing systems. Routine maintenance and janitorial services are not considered a facility modification nor are facility expansions.

The working group consists of five judges and three executive officers. Small, medium and large courts are represented on the working group and the working group membership is geographically diverse.

We meet 8 times a year. We have 4 scheduled meetings at the AOC offices in Sacramento and in between those meetings we conduct four scheduled telephone conference meetings, frequently confer with AOC staff between our telephone conversation and business meetings on an as-needed basis.

Last week we held our regular meeting at the mosque civil court facility in Los Angeles and member had the opportunity to inspect that facility from top to bottom.

The working group has a process in place for reviewing, ranking and funding facility modifications that are fair, equitable and address the critical needs of the trial courts statewide. It is a transparent process.

We review facility modification requests from superior courts, consider the staff report from AOC with a preliminary rank list of facility modifications, and approve the final list of facility modifications.

Again, our key objective is to implement the facility modifications policy adopted by the council to serve the council and to serve the branch. The next three slides show a facility modifications completed in the San Diego, Los Angeles and Alameda counties. I'm now going to ask Pat McGraff the facilities operations manager to walk us through the slides and speak in more details on the specific changes to the proposed revised policy.

Pat?

>> Pat: Thank you, Judge Power.

In San Diego this particular project incorporated the replacement of skylights that had lasted for over 30 years in this facility. They had cracked due to age and over time had become a safety issue for the people of the court. This project was approved and funded by the trial court facility modification working group. In Belle Flower in Los Angeles this particular trailer unit had failed. It was replaced with an energy efficient and management effective system for the court.

In George McDonald, in Alameda, this particular roofing system lasted for 26 years but had a long history of roofing leaks and damage to the interior of the facility. The facility has received a new roof.

There are many program changes we've experienced this year that have brought us to the point where we -- where the trial court facility modification working group has brought this policy forward to the council. The primary amongst those was the creation of the court facilities working group. In the initial original incarnation of the trial court facility modifications working group they answered to the interim court facilities panel which sun set in 2007. The changes in the policy before you today real align this working group back to the original intended structure.

Additionally the clarification of the facility modification definition by the office of general counsel improves the ability of the branch to better differentiate between routine maintenance and facility modification. The new policy incorporates this improved definition.

With the final transition of the Stanley Mosque facility in June of 2012 the lengthy transfer process is finally complete. All facilities for both the intermediate -- all facilities have transitioned finally to the operation and maintenance under the branch.

At this point in now we have the operational responsibility under one single umbrella. And it's important that we begin to plan for both the intermediate and long-term support structure for these facilities. We also have three additional years of operational history that has allowed our

program to mature and require implementation of policy adjustments resulting from lessons learned.

The new policy includes some changes. The first change brings the approval authority for the annual budget allocation back from the E and P to direct -- directly back to the Judicial Council. It also increases the reporting requirements of the trial court facility modification working group to the E and P and the council.

Lastly, it divides the annual reporting function. Currently we have one report that is a mixture of a budget allocation report as well as a long list of projects that have been approved and authorized over the course of the year.

The new policy bifurcates these two requirements and allows the branch to focus primarily on each of these functions as they serve different duties and different deliverables to the branch as a whole.

The policy maintains the existing functions, it allows the trial court facility modification working group to approve facility modifications, as those projects and needs are identified and estimated over the course of the fiscal year.

It allows the trial court facility modification working group to continue to adjust various budget categories as required over the course of the fiscal year. And this allows the branch to maximize the use of these funds. As an example in the last fiscal year the priority one budget allocation was projected in April to have an increase or a surfeit of the necessary budget. In the April meeting of the trial court modification working group they realigned that budget to approve facility modification priority to work.

Lastly, it codifies the past practice whereby the trial court working group has the ability to continue with critical projects during the interim period between the legislatively approved facility modification budget and the approval of the Judicial Council as to the specific budget allocations. This authority is critical to allow the branch to meet emergency requirements and mitigate potential court closures due to system failures. I'd like to turn it back to Judge Power.

>> Hon. David Edwin Power: With regard to the review and comment process, the policy was submitted for comment to the courts via -- there was no comment there. The second bullet point is incorrect. I did send an e-mail to the presiding judges and court execs regarding the proposed fiscal year 12-13 budget, but not -- I sent this on July 3rd. The revised policy was not attached to that. So that is an incorrect bullet point. However, the revised policy was reviewed and approved by the court facility working group chaired by justice Hill and also the E and P committee chaired by justice Miller. And we respectfully request that the Judicial Council adopt the trial court facility modifications policy to replace the existing policy that has been in place since 2009. And we're available for questions.

>> Chair Cantil-Sakauye: Thank you, Judge Power. Any questions about the new policy or its adoption?

If not, do I hear a motion?

>> I move.

>> Second.

>> Chair Cantil-Sakauye: All in favor of the motion to adopt the trial court facility modifications policy to replace the existing policy say aye.

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

>> Aye.

>> Chair Cantil-Sakauye: Thank you. It passes unanimously. Thank you Judge Power. Thank you, Pat. Lot of work ahead and behind us. Thank you.

>> One more part.

>> Chair Cantil-Sakauye: Item H.

>> Are we ready?

>> Chair Cantil-Sakauye: I believe so.

>> Hon. David Edwin Power: We'll begin with the budget. The trial court facility modification working group recommends the council adopt a \$50 million fiscal year 12-13 budget allocation and further recommends the approval of the plan list of facility modifications. The current budget allocation of 50 million to the office of court construction and management will most likely be able to fund all of the priority 2 facility modifications identified for fiscal year 12-13.

A priority 2 facility modification is defined as necessary repairs but not yet critical. An example of a priority 2 facility modification is in Los Angeles County, the Compton courthouse, FM4526. I have a slide for it. I'm explaining it. The replacement of a defective, nonoperational sewer pump or pumps in the basement of the Compton courthouse.

It is also possible that we might be able to fund some of the priority 3 needed facility modifications, there are approximately 40 to \$50 million of those with the 3 ranking, unlikely we will be able to fund many of these in fiscal year 12-13. We won't be able to fund any P4 through 6 MF in -- an example of a P5 -- I don't want to get in too much detail, defined beyond rated life but serviceable. An example would include the Riverside County superior court family law facility emergency generator renewal, FM2256. It is a needed replacement. We don't have the funds.

To drill down to a P5. But that is an example. Also the Santa Clara County superior -- aluminum window, FM206. I provide these examples only to illustrate that there is a substantial unmet need for additional repairs to our courthouses statewide.

My final point is that even with all the new construction projects that may be scheduled to be coming on line, the reality is that five to six years from now, once all the planned new construction is complete, approximately 90 percent of our court space in use today will still be in use. And obviously adequate funding of facility modifications will continue to be a critical issue for the branch. I'm now going to ask Pat to explain the -- \$50 million contained in

recommendation 1 and also briefly comment and explain the six projects on the planned facility modification list identified in recommendation 2.

Pat?

>> Pat: Thank you, Judge Power.

The recommendation for the \$50 million budget allocation is as follows. The first category is for statewide planning.

This budget is currently planned for \$4 million this fiscal year. Allocation funds the completion of facility assessments, investigations and other activities related to the identification, solution analysis or development of facility modification requirements, estimates, plans, and preliminary designs. We believe that this is a reasonable budget given our historical expenditures and the portfolio of our size of over 500 facilities in approximately 20 million square feet.

Priority one budget of \$4 million. This allocation of \$4 million is funded based on historical costs taken into account the increased age and condition of the court facilities.

The plan facility modification budget of \$8.7 million. This allocation is a first for this process. We have not previously submitted projects under this allocation. However, due to the lack of funding in fiscal year 11-12, the trial court facility modification working group was not able to fund all priority 2 projects in full.

As such, we have determined that these projects are appropriate for funding as part of our planned efforts for this year. We will discuss the projects in greater detail later in this presentation.

The vast majority, 67 percent, is allocated to priority 2 through 6 FMs that are going to be developed and approved by the trial court facility modification working group over the course of this fiscal year.

There are many factors that come into consideration as we develop the budget allocations. The first is that this budget represents a \$20 million increase over fiscal 11-12. This represents a restoral of facility modification budget back to previous projections.

This aligns with the original proposed levels of funding last year, however, early on in the budget process the legislature reallocated \$20 million to support court operations.

This action resulted in the branch's enact to fund all priority 2 work, last fiscal year, and no priority 3, 4, 5, or 6 work was funded and continues to be deferred.

Current budget is still insufficient. However, we anticipate that we will be able to fund the majority of the critical projects this year. The continuation of the deferred maintenance strategy imposed on the branch by the legislature will result in an increase in failure of systems and negative conditions in court operations.

With regards to recommendation 2, this year the trial court facility modification working group proposes the funding of 6 specific projects as planned, facility modification projects. These projects were prioritized, ranked and scored with the consideration of the policy. Three of these projects were partially funded in fiscal year 11-12. In an effort to move these critical projects forward.

Also three additional projects were unable to be funded due to the overall limited budget capacity of the branch.

The first project -- first two projects are elevator renewal projects. The first project is in San Francisco, hall of justice. This is a partial renewal of all of the elevator systems in the building. The four elevators that are currently being remodeled are dedicated to holding -- these

elevators frequently trap sheriff's and detainees in them. The second elevator project that we are currently working towards is an elevator remodel at the full building in Los Angeles.

This is a complete 21-elevator remodel. For those of you who have worked previously in Foltz, you understand the critical need that these elevators have had trouble since the day they were installed. This goal and this project will help restore those systems back into operation.

The third project was a partially funded facility modification for Fresno County courthouse to renovate the computer room. The facility was originally targeted for a capital improvement project but due to program delays as well as budget decreases the much-needed renovation for this area was delayed beyond acceptable risk factors for court operations. High temperatures within the space and lack of reliable utility services resulted in past system failures that shut down critical IT infrastructure for the entire court.

Work has commenced on these three projects and should additional funding not be approved, these projects will come to a stop. Increasing the overall cost to the branch as well as create continued risk to court operations into the future.

The other two projects are the third -- fourth project is a coil system replacement in Ventura hall of justice. These coils are leaking currently and if we do not replace them within the next fiscal year we will be in violation of California EPA air quality standards.

The lastly, our long term deferred issues at Ettelman's courts. These projects have been deferred by the County for many years. And if we continue to defer the HVAC system replacement of the building automation system and the controls, we will begin to incur additional indoor air quality issues for the court. Which is high risk given the fact that we've got such a young population in that facility.

Additionally the exterior of the building is beginning to delaminate. The surface is a popcorn type material that looks like snow as it starts to fall to the ground. And replacing that material in the course of this next fiscal year will eliminate potential water intrusion into the building.

Like to turn this back over to Judge Power.

>> Hon. David Edwin Power: Thank you, Pat. The policy -- the budget was e-mailed by me to the presiding judge and court execs. On July 3rd. We have received no comment. And at the last court facility working group meeting the budget was reviewed and approved. And the budget was reviewed by E and P and they authorize to be placed on the agenda for today.

And I request that the Judicial Council adopt a \$50 million fiscal year 12-13 budget allocation and approve the planned list of facility modifications. We're available for questions.

>> Chair Cantil-Sakauye: Should --

>> I move approval of the recommendation.

>> Second.

>> Chair Cantil-Sakauye: Second by Judge O'Malley. Any discussion?  
Seeing no hands raised. All in favor of recommendations 1 and 2, please say aye.

(A Chorus of Ayes.)

>> Chair Cantil-Sakauye: Any opposed?

Matter carries unanimously. Thank you Judge Power and the facility modification group for keeping our courts safe as you can and a roof over our head. Thank you.

>> Hon. David Edwin Power: Thank you very much.

(Applause)

>> Chair Cantil-Sakauye: That concludes our business agenda. And we do conclude today's meeting with a brief remembrance of our judicial colleagues recently deceased. The Honorable Irwin Nebron, and Daniel T. Brice, both judges were retired from the bench, and we honor them for their service to the court and to the cause of justice.

The next regularly scheduled meeting of Judicial Council is in August, the 30th and 31st. This business meeting is adjourned. Thank you.  
We're off record.

(Meeting adjourned)