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 August 31, 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: We have Mr. Mark Robinson joining us by teleconference.

>> Good morning.

>> Chair Cantil-Sakauye: I always remind Council regarding our audio cast and video cast, please speak into your microphone, speak clearly so those who follow us on line or on individual are able to understand the conversation and know who's speaking. Thank you. We begin this part of our agenda with the consent agenda. Items A through H. And having heard no request to remove any of the consent agenda items, we approve these proposals and recommendations. By way of information, as you know, the executive and planning committee places items on the consent agenda in consideration of the time we have for judicial council meetings. But placement on the consent agenda in no way reflects the significance of the proposal. And prior to any meeting, any member may request that the item be removed from the consent agenda to the discussion agenda.

Item No. 1 on our 8:30 agenda is council members liaisons to trial courts and AOC divisions. This is a member report and discussion. No action is required. I'll have justice Miller lead off.

>> Hon. Douglas Miller: Going to defer to whoever would like to speak.

>> Chair Cantil-Sakauye: Judge Baker?

>> Hon. Stephen Baker: Thank you, Chief. Morning everyone. I'll provide a brief report concerning the liaison activities between myself and Angela Davis. We're both the liaisons to the office of governmental affairs. We meet with Curt Childs and his staff on a monthly basis. Today those conferences have been over the telephone and we've had one in-person conference before one of our council meetings here. We have not -- this is the site -- we have planned to do that. And anticipate we're also going to make our conferences quarterly instead of monthly.

Curt Child appears here frequently, as you all know. And I think the responsibilities of OGA are well known to all of us. So I'll try to be brief. But I just want to briefly give an overview of what their responsibilities are, what their staff amounts to and what they've done with the budget restraints that we're all facing right now.

First of all, on behalf of the branch, OGA essentially represents the Judicial Council and advocates for the Judicial Council on legislative policy and budget matters. In doing that, they review and analyze all bills as they're introduced, and also when they're amended to determine what the impact is on the judicial branch.

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And as I think we heard Curt mention yesterday on an annual basis that amounts to something in the neighborhood of about 1,000 bills. Very busy office.

They identify and track legislative mandates such as required reporting and rules of court. They develop legislation for sponsorship and they advocate that legislation. They participate in legislative hearings. They meet with legislators, staff, interested parties and committees. And they're especially involved in the drafting of the budget trailer bill legislation insofar as how it affects the branch. They serve as staff to PCLC, which of course is chaired by justice Baxter. They work with council's advisory committees to develop recommendations for PCLC consideration. And they're also the staff for the bench-bar coalition. So they coordinate all the bench-bar leaders to advocate legislation. That's important to the branch.

They put together the bench-bar days in Sacramento, they set up meetings between members of the bench and bar, again for purposes of advocating legislation that's important to the branch.

They coordinate the logistics of the chief's state of the judiciary address, the form that follows that. And they arrange and coordinate liaison activities between the chief and justice system partners such as bar associations and other justice system players.

They currently have 11 staff members, that includes Curt Child and Donna Herkowitz. They currently have one vacant position that needs to be filled and they recently merged two positions into one due to budget constraints. Speaking of the budget, they've done their share to reduce their budget needs. They've -- in February they moved into a smaller space in their building in Sacramento, cutting their rent by about a third. They've saved a considerable amount on office expenses this year. And Curt gave me a report indicating that he thinks in the last year, you know, with these effort, they've underspent their budget by roughly $150,000.

My final thoughts about OGR are as follows. It's well known to all of us, they report here frequently. They have an intimate relationship with the administrative director and they're very hard-working, dedicated people as we heard some yesterday, and as I think we all know. They're not hard working, but they're fast working. They have to be. They work on nights and weekends.

I remember when I was active with the bench-bar coalition -- and I believe Mary Ann O'Malley is the co-chair of that coalition now -- getting a call from Mary Ann on one day prior to one of our furlough days. I can't remember what the issue was, but we amassed about 20 judges and ended up in Sacramento the next day and Curt and his staff were instrumental in putting that together. And that's typical of that office.

So I guess my final thought about OGA is, you know, the theme that they seem to follow is with respect to legislation, if you're not at the table, you're on the menu.

So --

(Chuckling)

>> Their involvement in Sacramento is very important now. Those are all my comments about the legislative liaison activity that we're doing with OGA.

Angela, do you have anything to add to that?

>> In addition to serving as a liaison along with Judge Baker to OGA, I also served on PCLC and I agree with all the comments about how hard working they've been and proactive they have been. In many times when we've had conference calls and they brought up topics, they anticipated the questions on the committee and they looked closely -- the bills that are coming through. And even stuff that's not yet down on paper. But just percolating.

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So you know, I don't think they took too many dings, actually in the SEC report. And I think they run a tight ship and work hart.

>> Chair Cantil-Sakauye: Justice Baxter?

>> Hon. Marvin Baxter: I'd like to augment the comments. I've had the privilege to work with OGA directly since 1996. And it's an extremely important -- extremely important operation.

And it's an operation that by necessity requires that they obtain input from a variety of sources. In addition to the advisory committees that might be at issue, which certainly encourage the input from the presiding judges. And I must say that Judge Rosenberg's been very helpful in that respect.

And the -- I think the important thing is they -- when the presentation is made to the policy committee, it will set forth the different views, including their own views. And sometimes their own views may differ from those of the advisory committee or particular -- I mean, these are contentious issues that are coming before us.

The important thing is that those contentious issues be aired to the policy committee so we have a policy of encouraging any dissenting view to be argued and presented.

And they're in the spotlight. And unfortunately, there will be criticism expressed against a particular employee simply because the person criticizing may have a different political view, or may not appreciate the political consequences.

There are situations, as Judge Baker made reference to, where you can -- you have a choice. You could just simply say, no, absolutely not, or you could say maybe but let us be at the table to express our concerns and hopefully end up with something that's acceptable.

So anyway, I do want to compliment Curt and his team at OGA, and to emphasize how important it is, not only that the work they do, but also that we receive a -- they receive the input from the members of the council. And if any of you have any questions, feel free to direct them to me or to -- or to Curt.

That's it.

>> Chair Cantil-Sakauye: Justice Hull?

>> Hon. Harry Hull: Thank you, Chief. I want to report very briefly on my visit to two of the courts with which I am liaison.

Earlier this spring I was able to visit the superior court in Stanislaw County, presiding Judge Cordoba and Mr. Tazi. He gave me a thorough understanding of the situation their court had. Their court has been one of those that I think in large part through his experience and skills had been able to put aside rather significant reserves in anticipation of the rainy day that we are all experiencing now.

At the time also we had -- he was telling me that they had their new courthouse project then looked like it was going forward, and for which they badly need the space.

I was able to have a brown bag lunch were a number of the superior court judges, and it was very informative. And I enjoyed hearing their thoughts and telling them that if there was anything that we could do to let us know.

They have a -- they have a very serious problem there in their juvenile delinquency court courtrooms. They are exceptionally small. The one row of seats for family and friends and

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spectators is about 2 feet behind the counsel table where the parties and the attorneys sit. And that table is about 3 feet from the judge's bench and the witness stand.

There are two departments. They have a room between them that acts as a break room, a refrigerator room, and a toilet.

And I was able because of the security concerns to get with Mr. Graham's office and he responded immediately and was able to put together a plan to help alleviate in part the situation that they face in those courts.

Unfortunately money is the key. So when we're going to be able to do that and how extensively we're going to be able to do that is yet to be seen. But this is a matter in -- in Stanislaw County that is not a meter of convenience or comfort, it's a matter of safety of the court users.

I was also able to visit later in the Spring Jean County with their COE, Rosa Carol. And we know because of their submissions to the council just how difficult a situation that they are in at the point that I visited with them, I could not do a great deal more than talk to them. And the incoming PJ about efforts we could make, I think somewhat significantly during the course of that conversation Judge Warner mentioned that they were having to close their small claims courts. And he said at the time that he made that announcement his judges came to him and said, listen, instead of closing the small claims courts, I'll hear small claims. And as judge warner pointed out, the problem with that is they knew they could get judges to hear small claim, they didn't have the staff to transfer the files around the area so that small claims could be heard, even though there was a judge available to hear them.

So they continue to be in very difficult straits.

I also along with Judge Deaba, we met -- we're liaison to our good people in finance. We had breakfast meeting with Mr. Theodorovich, three weeks ago or so. And we were having -- we're in the process of setting up another meeting and hopefully monthly meetings as time goes forward. I don't think that I need to explain to the council the very -- the very significant work that our finance people undertake. It's well known to all of us. But we're going to continue with that. And I don't -- Judge DeAlba may have further comments on that meeting.

>> Thank you, Justice Hull. Briefly to say what an asset Zlatko is and how lucky we are to have him and his experience here at the AOC and to the council.

>> Chair Cantil-Sakauye: Thank you.

Judge Kaufman and then commissioner Alexander.

>> As Jodi said yesterday, Jodi and I and some of her staff and -- went up to Susaville, she was unable to go up there. And we talked to the judges, who I have known for years. But basically in terms of space, they really don't have much to argue about. They have a new courthouse that's beautiful. OCC has done a magnificent job. Judge Rubin and I were walking through the courthouses and our jaws were dropping. It's beautiful, safe, secure. They have all the modern technology in there. It's just -- it's where we need to get to.

And so it's very -- I was very pleased.

Also Judge Bigger didn't tell me he's the liaison to my court and I'm the liaison to his court and we decided we would take care of those matters internally.

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(Laughter)

>> Chair Cantil-Sakauye: Sue?

>> I was the liaison to five courts. I was able to visit three of them. Eldorado -- and Glen. Instead of -- I met with the PJs and CEOs of each of those courts, instead of saying what each of them is doing, I figured I'd kind of combine issues that they all seem to have since they're relatively small courts. Eldorado has eight judges with one commission and an ADR person that acts as the Judge pro tem. The other two courts are courts with parse time --

There are facilities issues in all of the courts. Amador does have a new courthouse. They were sued in federal court -- on?

That's not on.

>> Now it's on.

>> No, I -- was I?

Anyway, they were sued in federal court and because of that the County donated a building. And they built out a courthouse in a former County office building. It's not ideal, it still has some issues, but it's better than the historic courthouse they had before, which is now a museum.

Both Eldorado and Glen were anticipating getting a new courthouse. They both have historic courthouses. Which have historic courthouse issues.

They also have some other locations. Eldorado has five locations, three in Plasserville, one in South Lake Tahoe and one in Cameron Park. The South Lake Tahoe facility handles all case types. But the Plasserville and Cameron Park have divided up what kinds of cases they hear in order to maximize staff. So people have to drive around to get to their certain case types.

In Glen County they have their historic courthouse in willows. They also have a small court, one-room courthouse in or land, which also doubles as the emergency center for the County, so if there's an emergency, they close court because the building has to be used for emergency services.

Some of the facilities issues we've heard before. Inmates are taken through public areas in order to get to courtrooms. There's insufficient space for jurors. They have to do -- they have no jury assembly room so they have to do jury selection in the courtrooms and they do jury deliberations in the courtrooms, so the staff leave, the jury stay, and they can't do other things with those facilities while the juries are there.

They also have some parking issues. Plasserville, the closest parking lot if you go to their downtown courthouse is over a mile away and you have to use a public bus to get back to the courthouse.

They have insufficient pace for clerk staff, but that right now is not as big an issue as it used to be because their clerk staff is down from 17 to 25 percent, depending on which courthouse you talk to. They've had some safety issues, they've had injuries to both jurors and customers. They have computer wiring problems, they have electrical wiring problems, they have the things we've heard about of mold, asbestos, cooling and heating. And Glen County had a flood which required their facilitator and self-help center more to a place that is part of the walkway for the employees to go in and out of the building.

I also talked to them about what services they use from the AOC. Their smaller county so they use more of the services of the AOC since they don't have some of the services themselves.

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The number one thing they think is helpful is the self-help centers which have been helpful in getting pleadings prepared and judgments and ordered written. They consistently use the office of general counsel, which is another one that they say is extremely beneficial as well as the maintenance program.

They like the program called PRIDE. I don't know a lot about it. But they all steam to be very happy with it.

They use HR services. They would like more IT assistance. They specifically would like things like e-filing and portals for the County agencies to be able to electronically transfer information. A big thing, since they're small Counties is getting the CHP citations into the system without having to do manual input. And they need case management systems that have imaging.

They use the AOC to help with records management. They use the assigned judges program, though they have had the number of days available to them reduced because of budget issues. They're not sure a half day -- which was one of the things that the SEC recommended -- would be as helpful because of the distance to get to their courts for the assigned judges, that it's better to have them do something for a full day. And they supported the idea of using assigned commissioners because of the fact that many of the subject areas that they need assigned judges in are in the areas that were commissioner expertise.

They also like the regional meetings. They are in the north area. They're glad the Sacramento office is going to be kept open. They think it's very important for especially small counties to be able to get together and see people face to face. And they particularly would like round table discussions with other bench officers, not necessarily the organized things with -- the AOC staff providing information.

What they've done regarding budget cuts was they've done some layoffs, mostly by attrition. And Amador is doing a voluntary separation plan, hopefully. They anticipate that with the change in the pension reform, which probably will pass today, that several employees will retire between now and the end of the year because of the changes in the pension plans.

They have reduced court hours. They still have furloughs from 12 to 22 days a year. They're replacing employees that leave with contract positions or per diem so that they don't have the salary issues.

They've reduced a lot of service toss their -- to the families in family court and juvenile court. They're using attorney pro tems and they're lucky that they have Counties near by that will offer their judges to come. Amador and Eldorado are right near alpine. Alpine's workload is a lot less and one of the Judges there covers regularly in Amador and Eldorado County when they have vacancies. Glen county is having trouble know because they have a problem with the DA that was sent to rifle side on a smaller scale where they're charging things that are not being pled to. So instead of having one week a month of jury trials, they're doing jury trials every week now with their two-Judge court.

They've made cut in the past and they feel that they were particularly heavy hit with this budget structure because of their reserves. They've reduced education and training. They want everybody to know that just because they're in a small County doesn't mean they don't have complicated cases. They just have less of them. The day I was there in glen County, Judge Bird had 91 matters on his criminal law and motion calendar for the morning. They still have to know all areas of law and have to keep up on the law in all areas. And they're supposed to be training their staff. And they don't have backfill to cover people when they're gone to do that.

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They also said that it's hard for them with less staff to keep up with the record keeping that's required for audits. And they're having a hard time with new appointees having to go to NJO, Judge's college and the what I call the overview courses for subject matter so they're gone four to five weeks out of the first year that they're there with very little ability to backfill those.

Eldorado is anticipating two judges going up tore election, so they'll have two judges in one year out of eight judges that will have to do all those educational things.

One of the things they said was the biggest loss they had was to the fact they can't do anything creative. And they had to cut back programs that they thought helped their litigants and this is at the same time that the County's cutting back programs because they're underfunding. So that a lot of their litigants are not getting services either from the court or the community anymore.

They did have some suggestions of things that could be done. Judge Halril helped prepare a program through the central California appellate project that trains attorneys to did habeas corpus petitions and she thinks that would be helpful to counties that have prisons in them. Sacramento court -- I think this was referred to yesterday -- has a website that they've worked on that with the assistance of the AOC where juvenile court case, if you have to transfer it to another County, you can go on this program. The other County has their calendars available. You can actually set the next court date, which you're required to do in juvenile, in the other County and transfer the file so that it saves time and that could be expanded.

There was also a recommendation that could be expanded to other case types as well.

That they said that the increase in fees has not helped them that much because all it's done is increased their request for fee waivers, which adds more work to the clerk's office and adds more work to the court because they want more hearings on their fee waives because fees have gone up. And the criminal matters result in community service instead of paying of the fines, so that results in additional work for their staff as well without getting any additional funds.

So they would request that before requests for just saying increase fees and fines as a way to fund the court, that somebody look at the actual workload that that entails.

They -- Glen County has set up a collection unit which they recommend every county do. They say it has saved them from having to laypeople off because some of the work they were doing in traffic to collect fines and fees are now done by the collection unit and the money they collect can help be used to pay those salaries.

They want the AOC to reduce the number of surveys they're requested and avoid duplication of them. When I was there, Glen County had 24 surveys pending that they were supposed to be responding to. And they believe some of those are duplicative.

They'd like regionalization of interpreter services. The finance department according to them, does not identify what checks are being paid for. So it takes a long time to match up checks with invoices. So they'd like more information. They'd like the AOC to act as a clearing how is, especially since there's not going to be KLEP's awards, so there's not a place to find out what best practices are. Eldorado is setting up a walk-up window their new traffic court so people do not have to go through the system and security, but they can walk up like an ATM, pay their fines, deal with their business and move on. And if it's successful and they are able to build their new courthouse, then they will try to have that be in their new courthouse as well so there's less people have to go through the security system.

I was also the liaison to CFCC. I met with them twice, once by conference call and once in person. We've had reports in the past about what all the services are that the various agencies and divisions of the AOC do. So I'm not going to go through all that again. Similar to what

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Judge Baker said. As an overview they do numerous grants and many of their positions are funded or a significant amount are funded by grants. So very little trial court funding, comparatively, is used for their staffing. They advised numerous number of advisory committees and task forces, and are very involved in statutory changes, keeping up on those things. And they also from yesterday, they're part of the staff for the tribal court state court forum.

They provide numerous services for the courts, and base the on what we heard yesterday about the effect on the public of what the budget cuts have been, they're trying to provide technical services to the courts to help manage that so that there aren't as delays for domestic violence, child abuse, and those issues.

And they tried to coordinate services with -- to do additional trainings. They get grant money to do mandatory attentive DA conference for DA commissioners and staff. And they try to do an annual beyond the bench conference, which includes all stakeholders including courts, but also the public with regard to juvenile court issues.

And later today the blue ribbon commission is going to be requesting authority to get grants to do a conference regarding truancy and school discipline. And that would also be managed through CFCC. So they try to do a lot of things that would benefit the courts and provide direct services to the courts, in hoping of trying to alleviate some of the budgetary issues and provide best practices that would be more beneficial.

>> Chair Cantil-Sakauye: Thank you. Thank you. That was a comprehensive report. Any other report?

Just Emilie Elias?

>> Hon. Emilie Elias: I'm the man -- of -- and Fritz, both of whom have abandoned me. But we actually met with CJER, and they also did three video Web X meetings with us showing different aspects of CJER, and they did a tour of what they manage here. On a personal level I've been involved with CJER when they were in Emoriville. That's a lot of years.

I thought I knew everything about CJER. But I didn't realize all the functions that they do. Besides educating judges they also run a significant program educating staff. A lot of this is mandated by the legislature and they have a -- a big education program then. In addition they run the video room downstairs with -- where the chief broadcasts from. That facility is under SDR. The event planning, getting all these hotels that we can't get is run through them. And they also run the publication downstairs. There's a giant printing press and everything down there where they make -- do in house prints so that the costs do not have to be sent out. They also work with construction of the new courthouses, making sure the technology needs are there so that the lodge distance learning can be offered so the building doesn't get built and realize it's not wired for WebEx or video conferencing and that. So they have a staff working on that as well. They are -- they are doing more distance learning, which is why more distance teaching. The realization is that the money's not there to bring everybody to gather together. And there are lots of programs that can be done for both staff and judges through distance learns. This is the WebExes and video conferences. We get notices of those regularly that they are on.

They're also working on modifying Siranus, a pet project of mine. I can never remember my password. So that it can get -- question if anybody here knows their password -- so they can get more of these things done, get them posted up there so people who need education can go on line

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and watch the videos and get the materials. Watch the materials as you're watching, read the materials and that. And they're working on updating that project.

They do have less staff. People have had early retirement. They've also -- the temporary people, the part-time people are being reduced in numbers. Which is -- obviously makes it more difficult to provide all of the services. They're plowing ahead on it.

I asked about now that the -- there are less people, what are you going to do with all the space. Apparently the people from the floors that are being closed to be leased out, some of them are going to be moving in down with CJER. There will be a consolidation of two different groups there to save space and enable those other floors to be rented.

I guess that's -- that's really what it is. They are continuing on. They've done their next two-year education plan. It's been submitted to the governing committee of CJER. That's come to us. There will be no reduction in it -- so far the education required or recommended for judges. And they intend to keep bringing it. There will be some live programs. The overviews and all of that will still be live. But some of the other forms will be long distance. One problem that Corrinne Alvarado mention today me is the problem with the hotels in San Francisco, that they can't get any. The new Judge orientation and some of the other programs are now scheduled in Sacramento. While they get better rate on hotels in Sacramento, it means staff has to travel. And so -- and buildings have to be -- facilities have to be rented as opposed to using the facets that are here. It's the yin-yang of the economic situation. There may not be that much savings but there's no ability to keep them in San Francisco because of the difficulty with the hotels.

And other than that, they keep working.

>> Chair Cantil-Sakauye: Thank you, just Emilie Elias. Any more reports?

Judge Baker?

>> Hon. Stephen Baker: I have a comment about the liaison program in general. I'm liaison in general to a number of the smaller courts in northern California. I want to report how I think the program is successful. The E and P committee agendaized this report because I think we're close to the one-year anniversary of the liaison program.

And obviously we can't have a report from all 58 courts this morning. But I just wanted to report that the -- it's been very well received by the smaller counties. And I received e-mails and phone calls and had some lunches with judges and other courts where I'm liaison. They all very much appreciate the fact that we have the program and it really has been very successful I think with respect to our goal with transparency and accountability.

>> Chair Cantil-Sakauye: Thank you. I think speaking of education as Judge.

>> Hon. Emilie Elias: Has pointed out how much we as counsel are being educated -- of courts work around and innovation as well as what really happens in the AOC in these agencies and these responsibilities.

And I remember that this idea came about, it's because of Judicial Council itself brainstormed -- I remember the white board with justice Miller and Mary Ann O'Malley, writing down ideas. And this came to fruition. It came at a time when we were discontinuing site visits, which were -- because site visits took so much time, they were helpful. But here we get more information, it's interactive. And I have to say when I go to courts to visit and speak with them, those of you who have been to your liaison courts already, the courts are so receptive to hearing

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and exchanging information because they've already met with you. This is a tremendous program. Thank you. Thank you. Next, then on our agenda is item J. That's a report by the executive and planning commission on the proposals by the strategic evaluation committee. And before we hear public comment, I want to say a few things about this historic report. And that is as you know, when I became chief, approximately 18 months ago, our branch faced alarming budget cut backs due to the fiscal crisis. We had experienced some before, but at that time we didn't know how long it would go and we still don't really and we didn't know its depth. So at that point the Judicial Council and the administrative office of the courts was also the subject of a great deal of criticism during that transition. And those criticisms had to be addressed immediately. My goal from the outset was to establish a fresh approach to governance, one that's based on what we do here now I believe, transparency, accountability and oversight. And self assessment and communication.

So again, soon after I became Chief Justice, I surveyed the judges. Sorry, Glen County. But that was a survey that I asked for them to tell me unanimously. And if though chose, what was wrong with governance and what was wrong with how they perceived the Judicial Council doing its job and -- whether or not there were any recommendations.

And so I, like many of you, I received the responses. I read them, I shared them with the appropriate committees. And the next steps really started to form. And that was we needed more facts. As a council we needed more facts to proceed. As far as the criticism of the AOC was concerned, I needed an objective body to study the agency. A body that understood what we do and how we do it. Really it was a dilemma whether to hire someone to do this or to use our expertise. And as you know I fell on the side of expertise, evaluating the AOC.

And so in March 2011 I appointed the strategic evaluation committee in order to conduct an in-depth review of the AOC. Because I believed I and the JC needed the report as a tool to how we would move forward with efficiency and transparency and what was clearly becoming diminishing resources. The committee worked independently, tirelessly without staff, collected volumes of information, reached out, tried to contact every entity or person who wanted to contribute or speak to this historic report. And 55 weeks later, in spite of their day jobs, they presented a final report, approximately a 150 recommendations to the council. We're taking this report seriously. It's important, it's our first self assessment of how we -- how we've operated and how we should move forward.

As you know, I appointed Judicial Council Judge walk-up and Judge McCabe, the chair and vice Chase of the SEC committee as well as Judge Cheryl Elsworth to give us background and help us move forward with this report and its recommendations. In June council accepted the report. And thereafter we had public comment on the website.

We've had two rounds of deliberation I think that I can fairly say about the SEC. That from the survey, that from the public comment.

Really a third, now, and that is the synthesis of those comments by E and P which we'll hear about today.

And before we begin hearing that and before we hear public comment, I again want to thank several different groups. And of course first the SEC committee for the remarkable work presented to us. None of us will ever underestimate or forget what you have done for the Court, the branch and surveying and bringing this information that helps us move forward.

I also want to thank E and P because I know in your 11 meetings that you described yesterday, that probably nine of them were regarding the SEC and the synthesis of the

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comments, and making sure that this could be presented to council in a timely, intelligent, coherent fashion that we could act on.

I also want to thank in addition to Judge walk-up, Judge McCabe, Judge Elsworth, someone who isn't here today, California judge's association president David Rubin for having CJA participate in their own lengthy discussions and evaluations of the SEC report. And also finally to the AOC employees, dedicated public certificate vans who responded to this survey, who helped bring it forward with ideas about how we can operate better and more efficiently to serve the courts, to serve the public, to serve the Judicial Council. And I know that we have many challenges ahead of us. This is moving us in the right direction and we will continue to move in the right direction with open mindedness, deliberation, and civility. And with that in mind, then, I'd like to call up our first speaker to comment on item J. And that is the honorable Carol A. Corrigan, associate justice, California Supreme Court. Welcome, Justice Carol A. Corrigan.

Good morning. Madam Chief Justice and members of the council. Happy to see so many familiar faces.

>> I have the privilege of having been appointed to the bench in 1987.

Inexplicably then the calendar seems to dictate that I have been a judge for 25 years. I don't claim that that quarter of a century has conferred upon me any encyclopedic wisdom but it has given me a sense of perspective. It seems perspective is greatly needed as we move forward to lead the branch together. California judiciary is one of the best in the world. And yet, it is no secret that we, like the state and the people we serve, are facing some substantial challenges.

History tells us that when big challenges arise, people become anxious and sometimes angry.

And we know that in times such as those, the people need reasonable, sound, wise leaders, in whom they can repose confidence. It is of course the responsibility of the chief justice and the council, but more broadly, all the judges of California to provide that leadership.

The process the chief justice has initiated has done its work diligently, independently and with broad input. Everybody in a branch had a chance to voice their concerns and their frustrations.

Everybody had a chance to make recommendations and offer suggestions.

Now, that process hasn't been easy. And it certainly hasn't been fun.

And as with all difficult and important undertakings, it has not been without some controversy and some acrimony.

Reasonable minds may certainly differ on many things. But now you have a candid and clear report on branch governance. And while reasonable minds may differ, that informs us why we need to look at those recommendations with analysis and review.

But broadly, broadly, we have looked backwards and we have identified a number of substantial failings. And some things that must be changed.

I suggest you ladies and gentlemen, however, that it is now time to stop looking backwards and start looking forwards to determine how to make constructive progress.

And this is where the concept of perspective comes in.

The report rightfully faults some past decision-making as lacking in deliberation and cooperation. Fair enough.

But let's not repeat those shortcomings. Let's make sure that we do deliberate about the findings and recommendations and do so as part of an ongoing dialogue.

One major theme of the report is the need for openness, transparency and cooperation.

Let us remember that each of those laudable goals is a two-way street.

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There may be some who insist, insist that you listen to them and them alone.

That only their views have merit.

Some may act in the glow of self interest. Some may speak in the heat of untempered zeal and satisfaction. And this is of course their right.

But I suggest that today we should agree to turn a page. We can learn from our history, but we cannot change it.

And while we cannot change our history, we must and can responsibly guide our future.

Now, we can continue to look backward to focus on blame and to nurse our grudges.

Sometimes it seems that that's when we do best.

We can talk at each other rather than speak with each other.

Or we can take a deep breath, remember that we are professionals entrusted with substantial responsibilities, and resolve to work together as partners rather than fight as adversaries, to reason rather than demand, and to discern rather than dictate.

The report you have received makes a number of suggestions. But perhaps our greatest challenge is to work together to see that mutual cooperation and confidence is restored and built upon.

This is a collective and mutual process. That is not to say that we will not sometimes disagree. Bright, insightful people of Goodwill do on occasion and sometimes on more than occasional instances disagree.

But often the best ideas flow from their ongoing discussions about their die Vern gentle views. Recognizing all of this, we should commit ourselves to be what we have been trained to be: Decisive, informed, deliberate and smart decision-makers, who honestly work together to find solutions in the spirit of cooperation.

As we turn this page, we have a new chief. We have a new council. We will have a restructured administrative office under a new leader.

Much remains and new challenges will of course rise. We can meet them.

If all parts of the branch watch closely, share openly, discuss collegially, and work together to serve the people of California from whom we should be mindful our authority derives. Thank you, Chief.

>> Chair Cantil-Sakauye: Thank you, Justice Carol A. Corrigan.

(Applause)

>> Chair Cantil-Sakauye: Next we'll here from the honorable Brenda Harbin Forte, county of Alameda. Welcome.

>> Hon. Brenda Harbin Forte: Members of the Judicial Council, administrative director and newly appointed administrative director.

To all of you, again I'm Judge Brenda Harbin Forte from the Alameda superior court and I thank you so much for this opportunity to address you today. I will incorporate by reference my written remarks. And I would won't repeat them here. I will however raise some issues with you that will make some of you uncomfortable and I do it in the spirit, the same spirit that justice Carol A. Corrigan talked about, so we cause, we debate and consider opposing and contrary views.

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A judge in trying to decide whether and how to intercede in negotiations regarding a plea agreement in a criminal case involving two African-American defendants alluded to the Klu Klux Klan. Making a remark to the effect that he guessed that the only thing that would make the defendants plead was for him to come out in a white sheet and a pointy hat.

A Judge ordered a small claims plaintiff to have no contact with three women and to stay away from a credit union without complying with any of the procedural requirements for the issuance of a restraining order. And without affording that person who was the subject of the order, notice and an opportunity to be heard.

In a domestic violence case after the petitioner testified to certain incidents, the judge stated that she was concerned about the throwing of rocks and spitting and stated usually that is the kind of behavior I see in middle eastern clients.

The Judge added, it's a declaration says, he dragged me around the house by the hair, it's almost always a Hispanic client.

In a family law case the judge ordered a change of custody of a hearing without prior notice to the parties and failed to rule on the party's request for accommodation under the ADA.

A Judge remanded a pro per defendant for failing to obey the judge's order to be quiet without following any of the procedures required for con at the present time and then on his own motion and off the record increased the defendant's bail.

During a jury trial with a difficult pro perp criminal defendant the judge made a number of statements about the credibility of that defendant, suggesting that the defendant was misrepresenting things in the court.

During a traffic calendar the Judge announced that the Judge wanted to meet with the police officers privately. When one -- when one of the traffic defendants expressed concern about that private meeting, the defendant was called a demeaning name by the -- the mic was open, the opposing counsel didn't know that this pro perp incarcerated inmate was there and the judge made statements that the inmates case had no merit.

During a criminal trial the judge summarily precluded the defense from presenting surrebuttal evidence, improperly ruled that the defense had no such right and displayed impatience toward the attorney when the attorney objected. In a sentencing after a negotiated plea the judge failed to provide the crime victim the opportunity to present a victim impact statement in person or in open court. These things did not happen in my home state of Mississippi. These things did not occur some long time ago. These things happened right here -- and although I will say about my home state of Mississippi -- there was a certainly a secret society, robe-wearing individuals, who threw threats and intimidation and public ridicule, sought to deny justice to African-Americans and others who unfortunate enough to come into the court system.

These events that I described happened here in California. And they happened fairly recently. For they were reported in the 2011 report of the commission on judicial performance.

And so now we have an opportunity to look at our court system. And to make some changes and to make some decisions about where we go and how we help judges to maneuver through, to negotiate through those sticky and important issues that we must all face.

And that is why the approach to change now must be a deliberate approach. And I applaud the efforts to do further study before simply adopting and incorporating all of those references.

Our members of the public and public trust and confidence reports have told us that procedural fairness in the courts is more important than the outcome itself.

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And we now, through sector one of those recommendations, are saying let us now abandon the public trust and confidence aspect, that division, that section because there's no funding for it.

Can we look and see if there is something else that we can do to ensure public trust and confidence in our system?

Can we make sure and make a public commitment to preserving access and fairness?

Can we commit to increasing diversity on the bench?

Can we commit to being that role model of public service that we are now telling the administrative office of the courts to adopt, to be responsive, to be servants, can we remember that our -- our customers are members of the public?

Let us strive -- it is not a suggestion -- one to suggest that we are being a barista if we try to serve the public?

Let us understand, those are our customers. That is why we are there. We are there to ensure that justices in our court system, we are there to preserve fairness in our courts.

I thank you, madam Chief Justice, for these remarks.

>> Chair Cantil-Sakauye: Thank I, Judge Harbin Forte.

Next we'll hear from Mis Terri Cannon, chair, state bar of California, council on access and fairness. Welcome.

>> Ms. Terri Canaan: Thank you, good morning. Chief justice, members of the Judicial Council, AOC staff and guests. I'm Terri cannon, I'm a lawyer and the chair this year of the state bar council on access and fairness. And in my day job I'm executive director of the western association of schools and colleges.

If you're not aware of what the council on access and fairness of the state bar does, I'll tell you just quickly, it was established in 2006 to consolidate the work of the state bar in the areas of diversity and to carry out the state bar's work to increase the diversity in the legal profession under one umbrella entity. Its purposes are to eliminate bias and enhance the diversity of the legal profession. It acts as a think tank, creating initiatives along the pipeline into the legal profession and the judiciary ALAN practice. Has 25 members from the bench and from all sectors of the legal profession including private practice, corporate law departments, government agencies, nonprofit legal aid, and education.

And it addresses all kinds of diversity, racial, ethnic, gender, LGBT, disability and age. And we did submit a letter on July 16th which I believe you've all seen. So I won't repeat all of what says in that letter. But I do want to emphasize a few things to the council.

We share with the counsel the goals of providing equal access to the courts, having judicial officers and staff that are responsive to the diverse cultural backgrounds of court users, which Judge Brenda just addressed. And building a judiciary that's representative of California's population.

As you know, this is your goal No. 1, the Judicial Council strategic plan adopted in 2006. And this aligns directly with the work that we've been doing, especially through our committee on the judiciary.

We have much work to do together to achieve these goals. Just a few statistics that I'm sure you're all familiar with. The state of California has a population that's 60 percent racial, ethnic minority. We have only 20 percent of our lawyers who are racial ethnic minority background. And only 27 percent of the judiciary.

The state has more than half women and we have only 40 percent women lawyers and 31 percent members of the bench who are women.

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The progress that has been made in the last 15 years toward achieving our shared goals has been brought about largely through the efforts of the state bar, the Judicial Council, and the administrative office of the courts. Working collaboratively in many different ways. Especially the work of the advisory committee on access and fairness of the AOC. Which has carried out several critical projects, including bias training for Jennie, resource guides and materials on very as -- various aspects of diversity, and the statewide judicial summits, one of which we just got the final report from a few days ago. We were very concerned about the impact of the recommendations in the report, in the SEC report when we read it. And we're really pleased to hear the tone that you, chief, and justice Corrigan have set and the deliberative effort that you're making to consider the impact of each of the recommendations that was made in that comprehensive report.

And we're very appreciative of the serious budget crisis that you're facing.

And so we all understand the challenge that you have before you in the budgetary constraints.

But we were concerned that the report didn't seem to give much consideration to diversity, access and fairness, or prioritize in any way its recommendations around that.

And we're concerned that if some of the recommendations are adopted, they would undermine the efforts that the Judicial Council and the AOC have made in order to improve the climate and the diversity of the bench. Particularly you'll see in our letter 7.412 and 20 of the recommendations. That would -- may result in the elimination of the advisory committee on access and fairness, and could result in the reclassification of staff positions from lawyer to nonlawyer or the elimination of positions altogether.

So we urge you not to adopt those recommendations without careful consideration of the court's own goals and priorities and the needs of an impact on court users. The future, could have dense and trust of the people of California in our court system depend on the actions that you take on this report.

The experience of those who pass through the courts and their perception of the fairness of the system depend on having a diverse judiciary. And judges and court personnel who are aware of and sensitive the very diverse backgrounds of the persons who appear before them.

So we ask that you retain a distinct entity that's dedicated to achieving your goal No. 1 and continue to support lawyer staffing of that entity, which we believe is crucial to the expertise that's needed to carry out the initiatives that support your goal No. 1.

And we thank you for the opportunity to address you.

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

That concludes our public comment. We can then begin to address Item J with justice Miller.

>> Hon. Douglas Miller: Thank you, Chief. And good morning.

As the chief indicated earlier, in March of 2011 the chief justice created and appointed the strategic evaluation committee. The SEC was charged with conducting an in-depth review of the AOC, its organizational structure, the services it provided, the serious functions it played, its operations, and the role it played within the courts and the Judicial Council.

Again, as we all know, the SEC completed its work and submitted their report to the chief justice on May 25th, 2012.

They made 151 recommendations. A significant number.

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Four dealt with the Judicial Council, its role and its oversight responsibility, a number dealt with the structure and organization of the AOC, and then many involved an evaluation of the individual divisions and their actions.

I know that this has been said many times, but I think it's important -- and again I want to personally and publicly commend the SEC committee members for their incredible efforts, their hard work, their time, and the just significant sacrifice that they have made.

As all of us know and especially the members of executive and planning, as having lived with this now for far less than the SEC members had, this is a very, very valuable tool. And our quest as a Judicial Council and as the chief justice in making improvements through this important process of self assessment.

The Judicial Council at its June meeting accepted the report and assigned the report to executive and planning for its further review and consideration.

You all specifically directed E and P to evaluate each recommendation, to prioritize each recommendation, and to create timelines for implementation and then bring those back to the council for your independent consideration. And we hope approval.

In addition, the Judicial Council directed staff to post the SEC report on its public Web page, it's been accessible since I believe that evening to the public. We also were directed to encourage public comments for a period of 30 days. And we received a significant number of comments. Very important comments.

It was for a 30-day period, but as all of you know, we continue to accept comments up until today.

Executive and planning has met as justice Hull told us, a number of times. Twice on August 9th and August 21st to review the recommendations. And I can tell you that we were able to consider all 51, and we will have, as you know, a report presented to you today with recommendations as to every single one of the SEC recommendations. E and P was assisted in this process by the chair of the SEV, Judge walk-up, by the vice chair, Judge McCabe and one of the -- Judge Elsworth and also by Judicial Council member Judge Rubin. They were a part of our process and they're at every moment whether we discussed the recommendations. And I want to thank the chief again personally for appointing the SEC members and Judge Rubin to advise us in this regard, because their expert assistance in our review was really invaluable.

I want to take just a moment, though, and talk about the process that E and P undertook.

First, we received 529 comments from 513 commentators, 30 were from organizations, 84 percent were from judicial officers. The comments were thorough, they were across the board, and they were extremely helpful, and they were reviewed by us in our process.

The comments dealt with a significant number which recommended implementation of the SEC report, that voiced support for the SEC recommendations, various had differing opinions on implementation and the time for those to occur. A number dealt with the culture at the Judicial Council and the AOC, a number we have heard dealt with access to justice and concerns in that regard. And they really were across the boards with regard to the effects that the recommendations might have on the smallest court to the courts of review.

When E and P met for the first time on August 9th, we initially started our process of evaluation without any staff. It was just the E and P members and the advisory members that had been appointed to assist us. And we had a number of items that we wanted to discuss in a setting with just ourself and without staff.

The first was should we have a meeting that was open or closed?

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We concluded that it was important for our evaluation to have a closed session so that we could talk about confidential personnel matters and that we could hear confidential information from the SEC members.

And we did hear confidential information. And it was important in our evaluation. We next discussed whether or not we should even invite staff in at all. And since a number of us indicated that we couldn't write as fast as all of us talked, we thought it was important to have a staff member there to take down notes.

And so we invited three staff members from the secretary yacht office to assist us in taking down notes.

Then we wanted to determine whether or not at any point during our discussion if we should invite members from AOC to answer questions. And we agreed that if there were time periods during our discussions where we needed some expert information with regard to a particular recommendation, that we would invite AO staff in. And we did. We invited Jody Patel and Judge Jar, and they provided us, again, excellent information on the recommendations and the timelines and the impacts.

And then lastly, we organized our review in a way that it didn't go from recommendation No. 1 to 151. We organized it in a way that it dealt with all of the organizational recommendations first, and then we went division by division.

And we were able again to get through all 151 and have that report for you today.

Now, I'm somewhat sorry for the length of my introductory and background remarks. But executive and planning felt it was important, very important, that you understood the process and that we explained the process that we followed.

Now, I know that some have indicated that the purpose of assigning it to executive and planning and the purpose for our review was merely to delay the process, to maybe eventually shelf the process and the report, and to bury it someplace.

But I can personally tell you that could not be further from the truth.

I'm here today to report that within two months of the Judicial Council accepting the report, after reviewing 529 comments and hundreds of pages of the SEC report -- and after meeting twice -- we have a report to present to you today that deals with all 150 recommendations. We have also established a timeline for implementation and a monitoring process to oversee that the AOC follows what you as a Judicial Council direct.

Now, I don't intend and I don't know that we have enough time to go over one by one all 150 items. But we can certainly in a moment talk about any of them that you want to, and we can discuss any of E and P's recommendations.

But I do want to kind of group this into three important aspects of the work of our committee. And they are, first, those recommendations of the SEC which dealt with Judicial Council oversight, the Judicial Council roles and responsibilities; second, those that deal with the restructuring of the AOC; and third, and almost most importantly, accountability. And the monitoring process that we came up with.

I do want to give you just a few statistics first, though.

We didn't reject any of the SEC recommendations. 12 of the SEC recommendations have already been implemented -- I'm sorry, 12 were recommended for immediate implementation. 18 had already been completed as of the date of our meeting. 7 had been started to be implemented and were ongoing. 17 dealt with the organizational structure and the proposal in that regards.

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A total of 38 dealt with the organizational structure and classification and compensation studies. Three dealt with refer referrals to the chief justice and concerned the assigned judge's program and which constitutionally are not within the authority of the Judicial Council to make recommendations on.

Two were assigned to the trial court budget working group, two to RUPRO, and one to the technology committee.

So first, those which dealt with the Judicial Council oversight and governance. E and P recommends that the four SEC recommendations concerning the Judicial Council oversight and governance be adopted, be approved by you, and be implemented immediately.

Now, we do have one addition and one change. And if you look at attachment 1 -- and I think because these are so important and deal in essence with what we as a Judicial Council are all about, I do want to just read them.

And these are recommendations 4.1 through 4.4 of the SEC report, and on our attachment they are 2, 3, and 4.

The first one is E and P recommends that the Judicial Council take an active role in overseeing and monitoring the AOC to ensure transparency, accountability, and efficiency in the AOC's operations and practices. We recommend that for immediate implementation.

E and P recommends that the Judicial Council promote the primary role and orientation of the AOC as a service provider to the Judicial Council and the courts, and we added, for the benefit of the public.

Next, E and P recommends that the Judicial Council in exercising its independent and ultimate governance authority over the operations and practices of the AOC much ensure that the AOC provide it with a comprehensive analysis, including a business case analysis, a full range of options and impacts and pros and cons before undertaking any branchwide project or initiative. In exercising its authority over committees, rules, grants, programs and projects, the Judicial Council must ensure that the AOC provide it with a full range of options, impacts, including fiscal, operational and other impacts on the courts.

Again, we recommend that for immediate implementation.

Next, E and P recommends that the Judicial Council conduct in the SEC it was a periodic review, we are recommending an annual review of the performance of the administrative director of the courts. The review must take into consideration.

Take into consideration input submitted by persons inside and outside the judicial branch. And that if Judge Jar takes this job in October, will be initiated in October of 2013.

We recommend that you approve and adopt each of those and accept our implementation schedule.

Second, restructuring of the AOC. 17 of the SEC recommendations concern the AOC organizational structure. And even though executive and planning essentially agreed with each of these recommendations, we felt it was important, and we wanted to give the interim and the incoming administrative director the opportunity to review these, to consider them, and to provide the council with whatever tweaks or modifications or changes they may have felt fit within their business approach and their vision. And they will provide that to us.

We directed them to present it to the Judicial Council today at this meeting in conjunction with our full report because we considered these recommendations significant and important and ones that needed to be dealt with now and not later, and needed to be implemented on a very expedited basis. And in a moment you will hear from Judge Jar and Jody Patel and justice Hill with regards to those proposals.

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And then the third thing I want to stress today is accountability.

You know, we can -- we can come before you and recommend that you approve these recommendations, you can a -- improve -- you can approve them and direct that they be implemented. And in some sense that is all and good.

But it is equally important to have a system and a process for accountability.

So we are proposing the following: For those that have been indicated they have been completed, we are going to ask the AOC to report to us in writing when they were completed, how they were completed and provide supporting document.

For those that are in the process Orion going, or for those that require a report back to the Judicial Council, or for those that we have set a timeline and need to be implemented in the future, we are going to ask that they report to executive and planning on a monthly basis, that the report be in writing, that it be provided with supporting documentation so that we can evaluate where they are in that process, how they are proceeding, and whether they an accomplishing the implementation goals that we have set.

And then executive and planning will report back to the council at each of their meetings. We felt it was important not just to have a report back to you at the Judicial Council meeting, but to have executive and planning monitoring on a monthly basis so that we were up to date on where they were in that regard. And so we could monitor that aspect.

So what I would like to do at this time is turn it over to Judge Jar, to talk about those 17 SEC recommendations that deal with the organizational structure. And Judge Jar.

>> Judge Jar: Thank you, Justice Miller, an and thank you will all for the opportunity to be heard this morning.

As has been indicated, the report of the strategic evaluation committee is global in nature as it relates to the administrative office. The presentation that Jody Patel and I will be making at this juncture will be focused on the executive office reorganization component of the SEC report. And it is hoped we will be able to demonstrate a plan for your approval that is most advantageous in the reorganization of the office.

So our focus will be on the executive office with a few additions. And I will note them, which will actually address a total of no more than 21 of the 151 recommendations. First order of business, we have materials to follow along with the presentation. They include of course the slides that are being presented with the space for taking notes. Toward the end are blowups of organizational charts. Don't spend much time on them right now because we intend to address them in the course of our presentation. And then at the very conclusion there is an index.

The index is to essentially our recommendations in reference to the executive and planning committee's report referencing the executive and plan committee's numbers so you can cross reference because our presentation won't follow that numerically.

I learned in leadership in another organization that underwent a complete transformation that all organizations, be they private or public, require periodic self assessment if they are to remain healthy organizations.

Why is that?

Each organization engages daily in problem solving. Some problems are known in advance, and others come forward spontaneously.

But organizations must address them, and they must resolve them.

And each solution to each problem has an incremental impact on the organization necessarily. In isolation, it's an insignificant impact usually. But over time in the aggregate,

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those incremental changes, adjustments, solutions, and movements in the organization change its course. They constitute in the aggregate, in other words, an unintended consequence of simply conducting the operations of the organization.

So a periodic self assessment process is a natural process with respect to every organization, I submit.

Here as has been indicated already by our chief and by justice Miller, the administrative office, as observed in the SEC report, has grown considerably over the last 10 to 14 years in major part because it has assumed new responsibilities on delegation to the council and accordingly to that office by the legislature and the governor.

That growth obviously has resulted in a number of actions and reactions. And so today we address the report and recommendation of the SEC that was commissioned by the chief as one of her first steps and supported by the council.

What caught my attention as a private citizen on the side line was that that process was announced to be a public process. It was going to be a process of self assessment that occurred in broad daylight.

When the report was received after considerable labor, it was placed out for public comment. And then as has been mentioned, the executive and planning committee assessed the public comments that came in to you.

One of the central findings in the report as it relates to the executive office organizational structure is that it has, with these new responsibilities, overtime, grown, and become top-heavy. It is indicated in the report that that overbreadth in terms of its sheer size, that is to say the executive office has resulted in a sort of segregation which is referred to as a silo effect.

The authors of the SEC report have proposed a remedy. And the remedy is executive management restructure. And with minor modifications, we agree.

I say minor, I should indicate I don't mean to suggest trivial. I believe that they are significant and important modifications, but they are minor in the sense that I submit also they do not represent departures either from the thematic underpinnings of the SEC report or the structural recommendations that are made in the main.

So the SEC proposes that we reduce the size of the executive team in order to improve the management of the administrative office. And we agree.

That reduction in size will streamline decision-making and it will also enhance and make more clear the lines of communication and authority within the administrative office, just as I have pledged as your incoming administrative director to broaden and make more clear the avenues of communication between the courts at that we serve and the administrative office.

The report writers for the SEC propose a clustering or grouping of the existing offices of the council based upon function.

For example, a grouping together of offices with programmatic functions, the education division would be a good example -- and a groups together of the administrative functions, for example, finance.

With that recommendation we also agree.

The first organizational chart, which is rather small on your screens and is reproduced accordingly in your materials, indicated the current state of affairs organizationally within the administrative office. And as you can see, over time a number of divisions and offices have been developed. Each of them reports to a two-person executive office. Presently the administrative director and the chief deputy director don't have denominated separate functions for areas of the responsibility in the organization chart.

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The authors of the SEC report note that from historical perspective, as the outside demands on the administrative office have been increased, particularly those associated with legislative activity and executive branch activity, the administrative director and the chief deputy director in the past came to emphasize more and more their external duties and responsibilities. An unintended effect of that was that internal management issues began to accumulate.

The SEC accordingly has proposed a transformation in the structure of the executive office.

It proposes a four-person executive office model.

Immediately beneath the Judicial Council would remain the administrative director. Working with that individual would be three division chiefs. A chief of staff, a chief administrative officer, and a chief operations officer.

With those recommendations we agree.

The reason for that structure as explained in the SEC report is that it will enable the administrative director to meet the demands from the legislature and the executive branch because an effective management of internal operations and programs may be assumed by three high level leadership positions.

And as indicated in the report, those three positions would be viewed as co-equal, and there must be to them a robust delegation of duty by the administrative director.

I would note that in the chain of command it is my proposal and the proposal of our interim director that the chief of staff be designated. That's a variation from the SEC report which identifies the chief operating officer. We believe and submit that the chief of staff is the person to whom second in command responsibilities should be addressed and -- in a little bit more detail momentarily we'll reveal why. But fundamentally the chief of staff as identified in the SEC report is a person who will have high level duties of responsibility to the Judicial Council, but not just that, they -- that person also will have a high level liaison responsibility to the trial courts.

It's important to recognize, of course, that within the AOC there are any number of points of responsibility and contact between entities within the AOC and the trial courts. But the SEC thoughtfully indicated that at the very top of the management structure there has to be one clear line to ensure that to the extent the problems arise relative to the efficient and effective communication between the office and the trial courts, someone within the executive office has those duties.

It's for these reasons that the chief of staff, would be charged with that liaison function, would serve as second in command in circumstances when the administrative director is unavailable, so as to ensure continuity of operations.

Well, what about the existing divisions that you saw in the organization chart?

What becomes of them?

The existing divisions would become offices within the organizational structure. And each of them would report to one of the three divisions and division chiefs receipted at the recommendation of SEC.

The offices would remain headed by directors as they are now known. Their duties would be unchanged, and certainly undiminished.

The SEC report makes in several spots references to compensation levels. It also strongly recommends that a comprehensive classification and compensation study be conducted throughout the AOC. It is our recommendation that no compensation adjustments be made with regard to the directors until that entire study has been completed.

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The proposed structure once again will set -- set forth within the report is to create a chief of staff who would head what we have denominated the Judicial Council and court leadership services division. I believe it's referred tos as the executive office in the SEC report. The chief of staff would be responsible for special projects and unions and as mentioned previously would coordinate administrative office support of and to the Judicial Council and also provide that crucial high level liaison responsibility directly to the trial courts.

The chief administrative officer, who would be responsible for what has been denominated the judicial and court administrative services division would have oversight of AOC business support functions that are not program specific, as I mentioned previously.

For example, financial services both to the council and the courts. Finally, the chief operating officer, who would head the Judicial and Court Operations Services Division would have oversight of corps business and service adven- -- to use the words of the SEC report; in other words, programs such as the family, children -- center for family and children in the courts, the education division, and the like.

With all of these recommendations, we agree.

We've set up two slides to show areas where there's either a modification or at least a potential adjustment from those recommendations contained in the SEC report regarding the executive office organization.

As I mentioned previously, we recommend that the chief of staff be designated as a second in command in circumstances in which the administrative director is unavailable.

The SEC report indicates that the office of general counsel, which is to be renamed legal services office, have a direct and uninterrupted line of report to the administrative director.

We propose and recommend that that direct line remain to the administrative director. However, that there be a direct report through the chief of staff with consideration of the considerable volume of opinion writing and other services provided by that office concerning not only the council and council activity the, but the trial courts. And that that direct line pass through the chief of staff to the new executive office.

With regard to the office of governmental affairs, the SEC report recommends differently that there be a direct report to the chief of staff.

Here it is our belief and submission that the OGA director and the OGA office should have a direct report relationship to the administrative director. The reason being that as the SEC report noted, this organizational structural change is designed among other things, to ensure that the administrative director will have the ability to focus on external demands on the council and on the office, most notably of course those emanating from the executive and the legislative branches in Sacramento. Obviously that means the working relationship between the administrative director and OGA will be constant and obviously in some instances acute.

In order to enable the two to work together as good as possible, the director should report to the administrative director. The editing and graphics group we propose instead to be merged into the Judicial Council support services unit. It has been observed properly, to the extent that (Inaudible) editing graphics and others, those necessarily have to be ended, but that is our recommendation concerning that element. Here is a recommendation that doesn't appear in the SEC report. I don't believe it is one that inconsistent but one that is crucial in our judgment, that is we recommend the office of court construction and management be bifurcated reporting to the chief administrative officer be created. Simultaneously that the design and construction

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functions of the office of court construction and management also be placed in a separate office and that activity be more in the operation of a court program be placed in the responsibility of the chief operations officer and more on that in a moment. The office of emergency response and security, the SEC report indicates that the services and duties of that office should be reapportioned into existing AOC offices and that the office itself should be closed. It is our recommendation that the office a focal point for security issues remain open.

The executive and planning committee kindly proposed to defer a decision relative to that issue until the December 2012 meeting to enable Jody Patel and myself to prepare a report of advocacy concerning that topic so the matter could be considered on its merits at that juncture and we ask that you adopt the recommendation in that regard at this time. Already mentioned the director compensation issue we also recommend that there be a merger of traditional administrative functions into a newly established office of administrative services reporting directly to the chief administrator officer, many of those things have actually occurred in the terms of the kinds of reforms that Jody Patel has put into place, known well to the Council, extraordinary progress has been achieved during her period of stewardship since February and in many respects changes have occurred to the very world that the sec members were investigating at the time they prepared the report. The last example of which is the last bullet item on this slide. In light of the reassignment changes in criminal law sentencing in our state enormous in their scope.

The administrative office reorganized criminal justice services into the criminal justice services office and it is recommended that that office as an operations related active be placed under the chief operating officer. Who arises is a proposed organizational structure. That appears toward the foot of your materials. We have placed next to it from the SEC report its proposed administrative structure for the organization of the AOC and I would suggest that it mirrors our own proposed structure with the modifications that have been noted. What also flows from this recommendation as it does from the SEC report is that the position of chief deputy director and the position of each of the three regional directors should be eliminated. Now don't go too far into each of the divisions and the offices that are clustered under them, because momentarily Jody Patel will give you more of an analysis of each. Return to the issue of office of court construction and management.

The recommendation that we now make for your consideration is not punitive in nature. It is in our view the necessary first step to ensure that the recommendations of the SEC relating to the office of court construction and management can be most effective implemented. To start at the beginning, about 10 years ago, significant legislation came into effect that had the impact of transferring responsibility for court facilities to the state and more particularly for the Judicial Council. The court facilities that were in place for trial courts throughout California numbering in the many hundreds were to transfer literally ownership to the state of California and the Judicial Council was to oversee that process. In addition, whereas previously it had always been county responsibility to construct new courthouses that responsibility now was also placed on the state and more particularly the Judicial Council. Flowing obviously from both new construction and from transfers of old buildings, many of which suffered deferred maintenance at the hands of counties that knew they were shortly going to lose title to them flows the new responsibility of management and maintenance. It was natural at the beginning of the project that the Council

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essentially place in the administrative office the responsibility of beginning those processes and that the administrative office would create one new office or division to begin to address them. Now there has been considerable maturation in those processes. Buildings are being built even as we have pauses in a number of the construction projects. There's obviously considerable ongoing activity on the design and construction side. Hundreds and hundreds of buildings many with maintenance problems that are severe as you well know. These are two separate severable activities. Design and construction on the one hand, maintenance and management on the other.

The time has come in our judgment for those two activities to be severed, so that they can each be performed more effectively and efficiently. We discovered that each of us had independently reached that conclusion. The recently published Pegasus report revealed its conclusion that indeed the design and construction function is entirely separate from the maintenance and management function. Justice hill who traveled here for a brief presentation is the chair of the working group on core construction which you created to oversee. I understand that he supports this recommendation, he also has some additional recommendations alluded to on the screen relative to working group oversight in your behalf of not only construction and modification activity, but also the important maintenance activity. Justice Hill, if I could impose on you.

>> Thank you very much. Chief, members of the Council, I fully support the recommendations as set forth to separate the two elements of the court construction and the maintenance program from one another. Our executive committee of the court facilities working group also fully supports this approach and believes it will be extremely beneficial to both components of the program to be separate and distinct. They are separate and distinct. It is necessary that full attention be given to each in a different setting that is currently operational. In addition to expanding the charge of the working group and I think that quite frankly the court modification working group that looks at court facility modifications, those modifications like elevators and roofs and significant expenditures of funds, needs to be expanded so that that working group can review all maintenance items. The maintenance program we believe should have active oversight by judges an by court executive officers. There is not that form of oversight at this time. There should be, and there will be under this recommendation.

Finally, I've addressed you a number of times about the centralized maintenance, something that I believe over time many courts support. Quite frankly, though we've heard that the present system is working for many courts, many courts would also like the opportunity to handle their own maintenance, and it is our obligation to see if we can make that work.

>> It is also our obligation not to turn it over to the courts with inadequate funding, which is what we would be doing right now. The funding for maintenance is certainly as you've heard before inadequate, and courts would be spending in essence pennies on the dollar or be given pennies on the dollar to maintain their dilapidating and inadequate facilities that they have been dealing with for years and years and years. We need to move down that path, we are moving down that path. We have a pilot project in place to make sure we can get all of the bugs out. We need to make sure that that works. We need to make sure to get the funding and once we do all of that, I'm sure that someone will be back from the court facilities or court modification and maintenance working group to address to you the reasons why to the extent possible, we

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should decentralize maintenance. Obviously if there are courts in the state who cannot adequately oversee these responsibilities and maintain their courts, the AOC will be there and will certainly help those courts, but for those many courts who have come to us saying they would like to be involved in this process and they would like to ultimately take over this process, we need to be there for them as well.

I would just like to applaud the efforts that have just been enunciated to strengthen both of these programs. I believe it is a timely proposal, a necessary reform, and it is one that I certainly urge adoption by the Council. Thank you and thank you.

>> Thank you, Justice Hill.

>> As to OCCM, we request that the Council direct the administrative office to bifurcate that office into the two that have been proposed. That we in the executive office work closely with the manager of OCCM to ensure that an implementation plan for that separation can be devised which is not disruptive of the important daily functions both sides of that house conduct and that we bring that proposed plan back to you and your Council at the December meeting for its consideration and it is hoped approval so that the process can be begun, which in turn, in my view, will facilitate addressing not only the recommendations of SEC but now the Pegasus recommendations. I would certainly ask that you at this juncture consider expanding the charge of the working group on modification to include oversight of maintenance and management. Now as I promised previously, we're going to get into a little more detail, drill down, if you will, regarding the three proposed divisions. Operation services, administrative services and then the leadership services division, which would be headed by the chief of staff. I'm going to turn the chair over to Jody Patel, given that the screen controls are here.

>> Jody Patel: Thank you, Judge Jahr.

>> Good morning, chief, members of the Council. I will provide a little more specificity with regard to the areas of responsibility for the chief of staff, chief admin officer and chief operating officer. For the chief of staff, this individual will lead the Judicial Council and court services. Court leadership services division. This individual will provide and support the Judicial Council. The trial court presiding judges and court executive officers advisory committees, the trial court liaison office, formerly known as the regional office and special projects office. Formerly known as the reengineering unit. The chief of staff areas of responsibilities, you will note as Judge Jahr indicated the legal services office would be a direct report to the chief of staff with a line of reporting also directly to the administrative director, and the (Inaudible) the red represents the change that Judge Jahr indicated in terms of the slight modifications that we have made to the SEC recommendation.

The chief administrative officer leads the judicial court administrative services division. This area will house all of your traditional administrative services for the Judicial Council, AOC, and the judicial branch. Under the chief administrative officer, we will have the fiscal services office currently known as the finance division, our HR, human resources services office, which on April the 1st, was temporarily merged with our trial court administrative services division as a result of some personnel changes. We recommend consistent with the SEC that that be once

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again bifurcated from the trial court administrative services office and be a stand alone human resources services office. Also the trial court administrative services office. All of your financial, HR activities reside under that office. And our IT services would also bend the CAO. The two modifications from the SEC recommendations are the last two boxes that you see in front of you, the office of administrative services which would be a new office that would house normal administrative services that are provided not just to the Council and AOC but to other branch entities, such as reception staff here in this building, mail room operations, copy services, as well as records. And we felt that it was important for all of those activities which currently reside under our education division to be stand alone office under the CAO, and lastly as both Judge Jahr and Justice Hill, you've just heard, the office of facilities management that would include maintenance as well asset management would reside under the CAO.

The chief operating officer leads the judicial court and services division, this will house all of your normal activities, court programs, operations, all of the collaborative services. Once again, you have in front of you the organization chart for the chief operating officer, or COO for short. The COO would be responsibility for court operations special services office currently known as the court programs and services division. The center for families and children, our education division, the last three boxes in red are the flight modifications from what the SEC recommended first, we would have our office of judicial branch capital programs, which once again is something that Judge Jahr and Justice Hill just discussed with regard to our court construction program and activities. We also have our criminal justice services office, and as Judge Jahr indicated, this is an office, historically, the activities of this will housed with our northern central regional office and was responsible for items such as reentry court, implementation of the legislatively mandated work of SB 677, however with the criminal realignment legislation that went into effect, and which was basically the catalyst for us merging the realignment activities with that office, it made sense for us to create a stand alone office called criminal justice services office in light and recognition of the fact that criminal operations and criminal that criminal filings in all of our trial courts are the highest volume areas in each of the trial courts and we believe that the criminal justice services office will continue to provide support to our courts and to the legislature and other entities on an ongoing basis which made sense to then make it its own office. The office of security, we request that you allow us an opportunity to evaluate the functions and activities of our office of security and come back to you in December with a recommendation with regard to what their core functions would be along with their staffing needs.

So with that, I'll turn it back over to Judge Jahr and then Justice Miller.

>> Thank you all once again for the opportunity to be heard. I don't think as they say it is surprise that so many changes have already occurred since the members of the SEC began authorship of their report largely due to the initiative of Jody Patel as interim director. She chose not to simply act as a placeholder, far from it, the accomplishments that she has definitely credited our agency are really quite remarkable. She and Curt who has worked hand and hand with her have made huge progress. They have dealt with some of the unpleasant aspects of the work, during her tenure, well more than 200 staff members have left the agency as a consequence of the dire budget circumstances that have occurred. So this is a time of great challenge, and I submit to you accordingly, it is a time of great opportunity, particularly given

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the leadership that the chief and the Council have shown in this enterprise. We thank the executive and planning committee for enabling us to make this presentation this morning and we request now that with respect to the executive office reorganizational components of the SEC report that its recommendations be adopted with the modifications that we have proposed. We also request with respect to implementation that you order the establishment of a new executive office operational by October 1 of this year with concurrent action to begin implementation of divisional reorganization. That you direct our interim director to begin that process ending my first day as an employee on October the 8th, and we ask that you direct our office to report back to you at your October and then again your December meetings regarding progress toward that implementation. Justice Miller.

>> Thank you, Judge Jahr.

>> Just in closing, I want to thank the chief for commissioning the SEC report, I want to thank again the three SEC members who are now Council members for your past hard work that you undertook and completed. Now the recommendations are ours. They now are the Judicial Council's. And we own them and together, all of us, as a Judicial Council, must assume the important responsibility to implement and monitor the recommendations which I hope you approve today. But even with your approval, unfortunately our work won't magically end today, as we've heard from the public comments both yesterday and today, we have to continually strive to improve. Continually strive to enhance access to justice, to serve the courts and the public, and I think importantly to continue which the chief has started to look deeply inward and perform self-assessment. In this process we will certainly have differing opinions, we will certainly have disagreements, we will certainly have strong discussions as to which path we should travel. But, I believe, I believe that as a branch, we must now move forward and we must turn the corner together. So thank you, chief.

>> Chair Cantil Sakauye: Thank you for the presentations. Now open for comment.

>> Thank you, chief. As one of the SEC members appointed to the E&P committee, I want to give my perspective. Consistent with what I reported to the recent trial court presiding judge and CEO committee, I was pleasantly surprised by the process that was undertaken by E&P committee. I thought it was methodical, thoughtful, thorough, the SEC members were not only present, but our input was solicited, so we were an active participant in the process. Material was laid out in a grouped form, rather than in chronological order, it was grouped by subject matter and divisions, which I found to be quite helpful in the way we approach this. As I stated at the June Judicial Council Meeting, it was the position of the SEC that this go through the natural process. We're an industry where our industry is built on due process, and I think I answered one of the questions to the presiding judges is would any of you as a judge have accepted 151 recommendations and then adopted them immediately? And I think the answer is no.

You allowed the process to occur and that's exactly what the SEC urged, that was what the Council urged, and ultimately, adopted and submitted to the E&P. I was also pleasantly surprised and comforted by the fact that it wasn't parcelled out to different committees, it was kept within one committee, the E&P, E&P has taken ownership and wants to monitor the

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progress. So not only are they reviewing the recommendations, making recommendations, but they also want to go further and be the contact point responsible for overseeing the implementation, and I think that's thoughtful and appropriate, and so I want folks to know that I'm pleasantly surprised, and quite comforted in the fact that this has taken a normal course, a thoughtful course.

>> When we went through the materials, the recommendations themselves that were submitted by the SEC, almost 1,000% were accepted, the statistic, if you figure out statistically what those numbers are, those not only are all star numbers, they are hall of fame numbers. So we encountered none of the rumored resistance it was a cooperative spirit, folks were interested in looking at each of them on their own merit. I'll note that there were a few of them, I think three of them that dealt with the assigned judges' program that we subsequently learned was constitutionally in the chief's discretion only. E&P communicated with the chief, whom indicated, send them to me as is, and I'll consider them, and I thought fair enough, but other than those three, none were rejected outright. In fact, if you call modification rejection, which I don't, there are only those three, and those three weren't within our purview. We learned something that day.

I would like to note that this has been presented for public comment two times. When the report was initially placed on the website on May 25th, and then again when it came to the Judicial Council for another 30 day comment period. Unless you were in a coma or in mars, you have had an opportunity to comment and that's what the process is about. That's what this industry and branch is about. I'm comforted in knowing that we went extra steps to make sure everybody's voice was heard.

I think you should be proud that you resisted pressures, external pressures to rush it, because not many things good come out of being rushed. So congratulations is in order for the steady deliberative process.

The court court, boy, am I confused. I wish I was at court, much simpler.

There have been time estimates provided by the AOC for implementation of a number of the items. In my opinion, they are overly optimistic, I applaud you for attempting to get these done in the time frames in which you've said, but I would warn everybody, if they don't get done, don't be surprised, I don't expect all of them wholesale aren't going to get done, but just some of these are going to take time to develop. You cannot change the course of a battleship on a dime. And in some cases, I think that's what's being done and I think it is being done in a cooperative spirit and I appreciate the AOC attempting to do that. But I'm mindful, it is probably not going to happen in some of the instances. So patience to those folks who believe that that is a stalling tactic or an attempt to delay, it is not. These things take time and I'm well aware that that's in fact what may be occurring. I noted in also the June Judicial Council Meeting and I think it was in response to a question from judge Rosenberg, that the new administrative director of the courts, should be given some flexibility. Flexibility to place their leadership style and imprint on the organization. The structure that was presented by the SEC is more akin to a leadership a pyramid leadership, ADOC at the point, we now have three directors in the midsection and then you have office directors at the base, the foundation. And that's how that structure is presented.

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The old structure was now calling on you to remember 6th grade. That's a flat topped like those built by the Mayan filters and others. That's what the old structure looked like. It was unwieldily, too many direct reports, too many voids for leadership compounded by the fact that the two principal leaders, the ADOC and the chief deputy director were so busy and consumed with external matters.

So this new structure, I'm pleased that it is being embraced. It should eliminate a lot of those gaps that occurred in the past, and please don't misunderstand me, it is not my opinion due to malfeasance or any mal intent it just happened. It developed over time. So this structure, I think, will help, not eliminate, but help to eliminate that reoccurring in the future.

The court court, I want to get back home.

The interim, ADOC, and the appointed ADOC, have recommended some changes. Those changes I'll note with some just basic information and background. First, the chief of staff as the second in command, that differs from the SEC recommendation which the chief operating officer be the second in command. Again, I think it is stylistic, and so I'm not getting too hung up on it. The SEC's position was the COO is somebody that's at the shop every day, so there's never a gap, because they're never gone, and any time there's the the ADOC is out doing what they need to do externally, if there's an issue and a decision needs to be made, you have somebody there to make it.

In this case, the court... boy, I really want to say court. I note that the ADOC is probably going to have a time commitment on external matters anywhere from probably 70 to 80% away. The chief of staff is probably going to be in the 50 to 60%. These are just rough estimates. Whereas the COO and CEO are virtually zero. They are there minding the mint. But I will note, there is no one way to do these things. And it can work. Just there should be effort and great care in noting that part of the silo effect was developed because you had the two major leaders out working the external issues and nobody is home to make a decision. So if the chief of staff is going to be the second in command, be mindful of the history, one, and two make sure that there is either very strong communication, or there's an assignment, and that's all I would note on that issue.

On OGC and OGA. If you look at the SEC's chart, the proposal just flips the two. In my opinion, it is stylistic, one had SEC had OGC directly reporting to the ADOC and that the OGA was buried in and I don't mean that in a negative term, it was housed in the executive office under the oversight of chief of staff. It flips the two, and to me, what that signals is just a difference of priority. Things are hot, right now in the first and second branch, I think everybody here gets that, and so there's a need to make sure that there is unimpeded communication contact and lines of communication between the ADOC and OGA. I would note this is a managerial structure. It is not intended to be militaristic, the military system is chain of command and everything including communications follow that rigid structure. AOC hasn't adopted that type of style or system and I don't believe it is going to in the future. The system that we have is a managerial system and the ADOC has the freedom to communicate with anybody they want and require anybody to directly report to them on a daily basis if they want.

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I'm not discomforted by the modification, because again, I think it is stylistic and I've already said be consistent with that statement is the new ADOC should have that flexibility. So I point that out, I would note the policy and basis for having OGA in the executive office, however, was one the three main middle leaders, which is the COO, CAO and the chief of staff, those folks are broken down in the following areas. COA is operations, that's their expertise, they should COO. I'm sorry. COO should have a strong background in court, since it is serviced to primarily courts.

That the CAO, that's dealing with fiscal should have a strong fiscal background, and that's an administrative capacity. So there's the ADOC's fiscal, one of the fiscal experts. Whereas the COS is really the policy advisor. Should have a strong either first or second and these are ideal. I know it is not a perfect world, and we note that you're going to find the best folks that you can to meet your model, but our thinking was you want a first and second branch background with lots of court experience, so that you understand the politics and the policy and so the COS person would have those components. And so that's kind of the thinking there. Thus, the proposed model removes the COS from the loop, is it that important? Again, it is stylistic, and I'm certainly not here to dictate to you how your leadership style should be. Also the ADOC has 500 things to do, having a direct report means you are also supervising a director, so now you have 501 things to do versus having the chief of staff do that and to have the OGA as a direct communication only. But again, stylistic. As long as you're aware of these policy considerations, the basis for the decision, and nonetheless would like to go down that road, fantastic, then you've made an informed decision.

Next, OCCM, the bifurcation seems quite frankly to me to be consistent with what the SEC attempted to do. That was to group this by function. So I note that that is consistent and have no further comment on that point.

Editing, if to retain an editing office, there are some redundancies.

Security, aware that other states have independent standalones, understanding that you're recommending that that be decided in December, the December meeting, not now, since you'll do further information. The SEC recognized statutory requirements and the importance of security. It wasn't our attempt to eliminate, rather fold it into other like functions, but again, I recognize, as does the committee, that there's no one right way to do it. So I'll leave it at that.

The Crim office that's being built, that's an office at the lower level, it is not within the leadership chain, so it doesn't change the pyramid. By all means, if you need to build more offices in order to create clarity or focus, I think that is stylistic and again, have at it, although be mindful and I think you are, there are budgetary impacts when you do that because you're elevating somebody to run an office.

The last thing I'll note is that these recommendations, particularly dealing with structure, are not fiscal based. They are intended to ignore fiscal problems. This is a long term solution to deal with an organization and its leadership so good times and bad this should survive. But being, again, tweaked to meet the stylistic needs and type of leadership that the ADOC that is in place at the time at AOC. So fiscal was really not our point. If that was your perception,

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please don't eliminate that from your thinking, because we did not do that. There's been a number of comments regarding fiscal analysis. This was not and it was not the SEC's intent that AOC become an organization that makes every decision based on fiscal analysis. Its intent was that you should have a full spectrum of analysis, which could include fiscal impacts, and that it was our experience and the evidence indicated that sometimes decisions were made without a full fiscal impact among other analysis. And so we are again, trying to create a structure and a system that minimizes the lack of process that was evident in the past, and I so agree with what was said by some of the speakers earlier. We looked at the past, we looked at the present, but this really is geared towards the future. Because it really is all about the future. Right? And so we hope that this model will accommodate the needs. I think I've commented enough on all of those issues and on each of the modification proposals, I would reiterate, folks, on the time estimates, overly optimistic in my opinion, and with that, thank you, chief.

>> Chair Cantil Sakauye: Thank you for those remarks and the perspective. Very helpful to us.

>> Good morning.

>> Good morning.

>> Judge McCabe always beats me to the mic, so I repeat everything he says.

>> Every day is a school day with Judge McCabe, we always learn a new vocabulary. It is always interesting and sometimes humorous.

>> Let me see if I can name that tune in five minutes or less. First of all, in the category of handing out thanks, we appreciate the recognition we've received, but what is missing, I think, is, chief, you deserve a lot of credit for undertaking this self-assessment. When you asked us to do this work, you made it pretty clear that this was to be a no holds bar examination, and what we found was going to be what we found and that's what happened. And you're to be commended for that. I think it benefits the branch.

Also, I don't think that the members of the committee, myself included, have adequately expressed our gratitude for the opportunity to engage in this work, true, it was labor intensive, it took us away from our courts, we don't remember how to work on the bench, anymore, but it was a wonderful opportunity to try to contribute to the branch moving forward. So we appreciate the opportunity.

Justice Miller commented on the hundreds of public comments that were generated and received in response to the report being put out for public comment, but I think I can say safely that the members of the committee, amongst ourself, received hundreds of private comments from judges and court personnel and court executives around the state. Many of whom are not affiliated with any group, there's working judges, or working court personnel, who read the report and called us up, sent us an e mail, a letter and said, you know what, thank you, we think our concerns were heard and that our concerns have a voice and we appreciated that. So when I hear 500 comments, I know it to be many, many more that read and considered the report.

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>> Just the bullet points on several of the modifications or differences in what Judge Jahr and Jody are recommending for the organizational structure. I would say that the at the time that the SEC prepared its report, we examined office of court construction and management, we knew from our site visits and from our interviews and from our examination of their operations and structure that changes were needed and we also knew at that time that the Pegasus report was out there and it was forthcoming. We didn't have the advantage of that. We think that the recommendations made in that report, you know, were actually somewhat predictable that some of those functions needed to be reorganized in a better, more functional operational way, so we agree with that, we agree with what Justice Hill said here this morning on that. That is consistent with the attempt that the SEC made to devise operations and functions in the organizational chart in a meaningful, understanding way.

The other changes with respect to legal services, I would agree with judge McCabe, those are policy choices, those are maybe even stylistic choices, those are liveable, we understand as a committee that what we did is we made recommendations only and they are just that, and they can be disregarded or embraced.

>> The one comment I would make in closing with respect to the modifications proposed to the AOC structure is that the most significant modification proposed is to put the office of governmental affairs with a direct line report to the administrative director of the courts. I'll just reiterate, and that's fine, that's one way to go, but I'll reiterate the rationale of the SEC recommending something slightly different. We envisioned, as sort of a natural division of operations, that an executive office would be formed with the chief of staff, and that that would house essentially the policy arm of the AOC and the Judicial Council, so our recommendation included Judicial Council support in the executive office, also we attempted to elevate the needs of the trial courts by and the courts in general, by having court support and liaison services within the executive office so that those concerns are brought to a higher level than they have been before. That's one of the things we heard consistently and uniformly up and down state when we connected our work and also obviously government affairs would be part of the policy arm or policy division under the executive office.

What is being suggested here now in my respectful opinion disengages the often of governmental affairs from the chief of staff. It creates an opportunity for a standalone division who structurally is out of the loop with the executive office. Is that something that everybody can live with? Sure. I think it is important to note that what we proposed in no way we think impedes the functional operation of the office of governmental affairs. So when there is some pressing need, there is no preclusion from the office of governmental affairs communicating with whomever that person needs to communicate with, be it yourself, chief, the PCLC, administrative director, or whomever, so there's a difference between the functional operation of what we envisioned by placing the executive office as we did, and the sort of structural placement of that organization here.

So with that one comment as being in my opinion, the most notable deviation from what was proposed in the SEC report, I would conclude my remarks and thank you again for the

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opportunity to comment. We also did appreciate very much the opportunity to participate with the E&P committee meeting to provide our input. Thank you.

>> Chair Cantil Sakauye: Thank you for your perspective and comments. Now we'll hear from Judge Elsworth.

>> I would like to as a member of the SEC committee also join the comments that have been made by now I never had brothers growing up, I have a couple now, working hand and hand with these gentlemen has been a great on hour. I want to make two points, that is joining their comments and agreeing with both of them. I want to assure anyone listening around this table or on the airways that there's nothing that's been hidden. If you think that you can place McCabe and (Inaudible) without giving our opinions, you don't know us very well. At all.

>> I heard you giggle down there.

>> The reality has been that justice Miller listened to us prior to these meetings beginning, he asked for our advice on how to proceed, he had sometimes daily phone calls with one of the three of us in anticipation of the meetings, and then after each of these meetings and during these meetings, justice Miller made it very clear that we were the experts, that we were the individuals to go to and to ask these questions of, and at no time did I feel that we weren't heard. In fact, I can say that the discussion dialogue sometimes reversed based on what one of the three of us would say. Afterwards, justice Miller would get on the phone with one of us and say how did that go? Is that acceptable, are you in agreement, are we handling this?

>> I want everyone to be very clear, there's nothing been hidden or chased away, or voices not heard, that the experts are being relied on, and we are being heard and I felt that we really need to be on that E&P.

>> This is all important, we're at the beginning here. We're at the beginning. We've received the report, it has been accepted, sent to E&P, for me, the most critical piece of all of this is the review. Is watching what really happens, and so, again, appreciate, chief, so much the opportunity to sit as an expert, as a member of the SEC, along with E&P as advisory, as they received these reports on a monthly basis, and so that we can also comment and continue to oversee this, and I want to assure everyone that the three of us as SEC members and now going to be beginning our Judicial Council opportunity, we all are very, very dedicated to making sure that the true spirit of change for the best and change in the branch, and opportunity, and the opportunity to go forward from here, will be something that is within all of our sights and we are dedicated to making that happen, and thank you, again, chief, for probably the greatest opportunity, one of the most difficult opportunities in my life for all kind of reasons, not just the hard work, but some of the unfair fans and unfair critics, but regardless, it has changed my life personally and I know that of my two brothers here, so thank you.

>> Thank you.

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>> I would say certainly under the leadership of the judge and the contribution of the SEC members, we are at a turning point in our branch. We really are at a crossroads that I think just the review process alone has improved us, so where do we go from here?

>> Judge Baker and then judge Rosenberg.

>> I certainly can concur with all of the comments about the process, and especially judge Wakub's comments, your insight and your leadership and undertaking of this monumental task. It appears to me this might be an appropriate time to make a motion and this might be a good springboard for further discussion and I realize making a motion on this is a little bit daunting because there are so many recommendations in the SEC report and modifications and then comments that Judge Jahr made that I think important for us to incorporate in the motion as well. So I would like to make a motion and I'm mindful of the fact that it is a broad motion and I'm happy to withdraw it if all Council members think there's a more appropriate way to address the matter.

>> Could I just suggest before a motion or separate motions be made that we see if there's any other questions?

>> I have a couple of questions that I would like to pose and then maybe motions would be more appropriate.

>> Judge Baker, are you done at this point?

>> Well, I'm I don't disagree with that process, but as I was mentioning, it might be appropriate to hear a possible motion, it might affect some of the questions that are being asked.

>> I doubt it.

>> Well, let me just say this, typically the motion is made and then we have discussion afterward. The motion doesn't cut off questioning, if you want to put your motion out.

>> Again, I'm happy to withdraw the motion if fellow Council members think this is too unwieldily. This is what I would inclined to propose we adopt and director to implement the recommendations set forth in attachment one subject to the implementation schedule set forth there in and subject to the modifications outlined by Judge Jahr in his presentation.

>> So that's a proposed motion.

>> Okay.

>> Pretty broad.

>> Okay.

>> Thank you.

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>> So we have a second by Justice Baxter, now discussion questions?

>> I'm going to be very brief. I agree this is really a historic occasion. I wonder if the folks knew they were engaging a historic occasion in those days, I think we all do around this table. Thanks obviously to the chief who set all of this in motion. Also thanks to literally hundreds of people, including hundreds of judges and jurists who participated in this process, it is remarkable. I pretty much agree with not only the recommendations, I serve on E&P, but I also generally agree with the tweaks, if you will, management suggestions by Judge Jahr Jody Patel, particularly as to OCCM, I think that's really an excellent approach, it is functional. Its viewed in a functional way rather than just boxes. I even, frankly, think you're proposal as to having the chief of staff be the number two is workable, at least we can try it, because there's no reason you can't make the COO number three. Right? In other words, if both the ADOC and chief of staff are out doing their thing, well, number three is still there nothing wrong with being number three. But I do have two questions. Question number one is, there were a couple of a number of folks who raised issues regarding our commitment to diversity, and do you believe that any of these recommendations, including the adjustments that are suggested by Judge Jahr and Jody Patel, do you believe that any of these recommendations in any way diminish our commitment to diversity?

>> Jody.

>> Judge, I don't believe so at all.

>> These are structural changes, if you will, and we're not focusing with the structural changes on eliminating critical and important activities and projects that AOC is involved in. So I do not.

>> The only other question I have is, with regard to the office of governmental affairs, you know, there's different ways to slice this up, but it seems to me that the structure that you recommended for the new legal affairs office, I think that's the title you gave it, is an appropriate structure also for the office of governmental affairs, plus the beauty it, perfect mirror image, in other words, having a direct line to the chief of staff, but having that dotted line to the ADOC, just a thought, would that structure work for you?

>> I'm certainly not suggesting that it wouldn't. I believe that the proposal that I made would work better. And that's yet in substance and effect.

>> Got it.

>> Thank you.

>> Chair Cantil Sakauye: Thank you. Next we'll hear from Judge De Alba and then Judge O'Malley.

>> Thank you, Chief.

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>> My comment is by suggestion to the administrative director, the interim and to Judge Jahr in the spirit of managerial flexibility and periodic self-assessment, if you might consider taking the internal audit services portion of the finance division and break it away from a director or an office and make it more response or reportable to your office so that there be more independence to that audit unit for internal scrutiny, and that periodic scrutiny that you spoke about, and again, that's just by way of suggestion, you might want to think about and maybe come back in December and whether you think that's good or bad or indifferent, however you feel.

>> The other is just to thank my good friend, Brenda Harbin Forte who came and made her comments, she is a tireless advocate for diversity, and of course, to thank Ms. Cannon from the state bar Council on access and fairness, and then just to say as Judge Rosenberg mentioned, that with all of these structural changes to the administrative office of the courts that we make sure that we remain mindful of the Council's strategic goal number one of ensuring equal access and fairness and promoting diversity in the branch, that we not, you know, sacrifice programs or staff that are important to support those types of efforts. Thank you, Chief.

>> Chair Cantil Sakauye: Thank you, Judge De Alba.

>> Judge O'Malley.

>> First of all, chief, I would like to thank you for undertaking this very important step in changing the branch. I think that it has made judges across the state feel like you have opened up the doors for them, given them a voice and also I think it has given them confidence that this Council will be (Inaudible) sorry.

[Laughter]

>> People have been wanting to do that for a long time.

>> Here I thought she was my friend.

>> Judges across the state are just happy that you've just taken such a commanding role in, you know, how their voices are going to be heard, how this Council is going to deal with the matters across the state as far as the AOC, and other matters as to how this branch functions. For that I thank you. I really would like to thank Judge Wachob and Judge McCabe and Judge Ellsworth who have given so much of their time to really help you take that giant step towards giving us a new process in the future to look forward to and to go forward. I am thrilled that we have Judge Jahr who is going to be taking the helm of the AOC. I think that he's of the right demeanor, knowledge, experience, intellect to be able to handle, very well, all of the duties that we are going to be placing in his trust. And I've heard, you know, some of the concerns by the SEC about, you know, office of legal affairs, and as well as OGA, I appreciate the concerns and the rationales that they have given, everything in this report had absolutely rationale behind it, 100%, as far as why they had a recommendation what it was based upon and why they made the recommendation. I agree that it is probably stylistic, and I think if Judge Jahr is feeling that this

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is, you know, the way that he would like to begin his journey, that we ought to afford him that opportunity and that discretion. If he feels that he can handle office of governmental affairs directly and if he feels that office of general counsel should also report to the chief of staff as well as himself, then we out to afford him that opportunity. I have every confidence that if it is not working, they'll change it. That in the reports back that they are going to be giving to this Council, on a regular basis, because of this report and the time, that we'll know whether or not it is working based upon those reports, and I'm just thrilled that we're here, I'm thrilled with the people who have been involved in this process. Justice Miller, you have taken this obligation from E&P and you have just done it beautifully, gracefully, intelligently and thoroughly and thank you very much.

>> Chair Cantil Sakauye: Thank you for those comments.

>> Commissioner Alexander.

>> I had a question about the procedural fairness and public trust and confidence.

>> I noticed that it is number 67 on the chart and it says it has been completed and part of that was because funding got eliminated. Where are those issues being addressed if there's no longer the procedural fairness and public (Inaudible) program?

>> I'm going to have Chad address that.

>> We had a discussion about this already.

>> Hi. So on the procedural fairness, at least, that falls within my division, and what we did, we there was specific funding set aside for the big report that came out, I think it was about a year and a half ago now on procedural fairness, that was earmarked for that, and so that report came out and it was published, we have sent it to other states who have asked for it, so we have one staff member who was sort of dedicated to that, and he now is working in the court interpreters program doing language access. So when we say the funding is completed, it is funding for the report, we still have the staff member who specializes in that if a new report were needed down the road, I think the Council can choose to reallocate money for that, and then we still have the staff member with the expertise who can do the new report.

>> When we say the funding is no longer there, because we have used up the funding that was previously allocated for that.

>> That was a particular project.

>> It was. It was a big report, yes.

>> Thank you.

>> Thanks.

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>> Chair Cantil Sakauye: Judge Jackson.

>> One thing I would like to emphasize is that there were some structural changes and some departments or programs were eliminated, it was our understanding at the E&P and one of the judicial Council over sights, is that when you try to institute a program, particularly dealing with diversity, and of course fairness and access, that and whether to keep or not to keep it, and I remember initially the SEC report talked about the financial or the business like evaluation, we also added at the E&P the impact on the stakeholders and our purpose. That will always be a part of when you start to restructure and eliminate programs, you have to come back to the Council, not only the financial impact but how does it affect us as a branch in ensuring diversity, fairness, and access, and I also like to thank the SEC, the members, I got to know them, working at E&P, Justice Miller, it was a lot of fun, particularly on your birthday, we were going through 151 recommendations and of course I would like to thank our chief for initiating this whole process.

>> Thank you, Judge Jackson.

>> Kim Turner, Judge Jacobson and Hardcastle.

>> The fact that the internal audit services, I believe is housed in the fiscal services program is probably not the ideal place to put a function of this nature. I think that will are practical reasons and perception reasons to make sure that internal audit unit is not reporting up through a number of, you know, sort of steps of the chain of the command steps of the organization to get to the administrative director of the courts, particularly if there's ever an opportunity for the internal audit group to be looking at any other AOC program or AOC division.

So I think if you look at the charts of corporations and of other governmental entities, you would find that the internal audit services typically has a direct line report to the administrative director or to some very high level position in the organization. And I think given these times, the accountability, transparency, the criticisms that the branch has taken that the Council has taken, to highlight and to really, I think, perhaps memorialize a structural change here that I think will give more confidence to those who are looking at the AOC, that internal audit is being given, you know, an opportunity to really bring findings and issues and concerns directly to the administrative director is a really good idea. It is a good idea for us in terms of the health of the organization going forward.

>> Judge, Chief, if I can just address that really quickly, and I appreciate your comments, Kim, as well as yours, Judge De Alba,

>> Judge Jahr and I have have had discussions not just about the internal audit unit but other structural changes. We consider those phase two.

>> Great.

>> Because in addition to the first two layers, if you will, as outlined by the SEC, we have been conducting our own internal or a review that I've mentioned on a number of occasions just

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recently as part of our own internal review, we wholeheartedly agree with and support what you both have said

>> Chair Cantil Sakauye: Judge Jacobson.

>> I just have two brief comments to make. One is speaking from the perspective of someone who was worked in the criminal justice for a long time. I'm aware that there's a perception across our branch in terms of and the a local trial courts that the criminal side of our operations don't always get the same voice with the AOC or with the Judicial Council that perhaps other programs do. And I'm very pleased to see with the and I'm speaking really to the proposed organizational restructuring that the office of criminal justice services has been elevated. I want to say as to the new incoming administration, Judge Jahr, Ms. Patel, that it gives me high hopes, but also great expectations in that regard.

>> The other thing is as we're all aware, we've been in a period in our branch of great divisiveness and I want to particularly indicate that I very much appreciate the comments about perspective and the spirit with which we should go forward that were made by Justice Corrigan, I appreciate those very much.

>> Thank you.

>> Judge Kaufman.

>> Three things, as I said yesterday, from an organizational standpoint, we as a Judicial Council set policy, okay? And then we instruct the ADOC and his staff to implement the policy. What we're doing now differently in a sense is that we have oversight, they have to report back. Every month we're going to get a report back. What we're designing today will be reviewed every month and annually. I would hope that what we design today is flexible enough that a year from now, five years from now, the organization will change, it will change to meet the growing needs of this branch, that's what we need to be doing. To micro manage the ADOC is not important at this point in my opinion.

>> Make sure that he and his staff are implementing what we are saying. Number two, in no way should the AOC staff think that this is a demeaning exercise. They do a fantastic job. I am so impressed with these people, they do a great job and they deserve every accolade that we can give them. Thirdly, is for judge Baker's motion. Justice Miller started out with basically three different areas of we should be adopting and although I think it is obvious that we're going to prove this. I think it is important that we separate each area for adoption so there's no it is very clear to the branch and to everybody else in the stakeholders, what we are doing. I think you have to delineate everything.

>> Okay. I understand that. Well taken, and I saw his hand go up.

>> Judge Hardcastle, you're next.

>> Thank you, Chief.

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>> I'm speaking for CJA and Judge Rubin who is in Sacramento monitoring a vote.

>> I would say kudos, my kids would give props to the authors of the SEC and as well to you, chief, for starting this process when you first came on, and we thank you from CJA for including us in the process and in the implementation and thanks to E&P and Justice Miller for including California judges association. We made an 18 page response or comment to the SEC report, and that was authored by our executive board. We stand by it. We ask that the Council adopt the recommendations, they be adopted as soon as is practical and with all deliberate speed. As to the organizational chart and OGA, I just offer these personal observations. It is certainly more important as to what happens on the ground than what happens on an organizational chart. Judge Jahr should be given the flexibility to make that work on the ground, as well as on the chart, and to steal from the military a bit, since I spent 23 years in the army, one of the processes might be to give commanding control to the administrative director of OGA, but they be attached for administrative purposes to the chief of staff. So that they could handle the day to day things and make sure that they work and play well with others and don't run with Scissors or eat the paints, and then those day to day things, but the important things is Justice Baxter has talked about so there can be a immediate pipeline that go forward. And finally I want to echo justice Corrigan's comments about these judges we're good at looking backward. We look at what happened and try to figure out. Now we have to start looking forward and I really appreciated her comments.

>> Thank you.

>> Chair Cantil Sakauye: Next we'll here from Miriam, and then Judge Herman.

>> Thanks. I had three things simply to add and I think that this has been a tremendous discussion. I'm actually intrigued that it was Justice Miller's birthday during many of the recommendations, I think it was a birthday where he age five years instead of a single year. The first is in terms of the OGA issue. I think the sentiment around the table is that we have put the best person in place as the new ADOC, there's confidence in him, he needs to be allowed to do his job the way he best sees fit with the Council and leadership around this table keeping a watchful eye and so I think everybody seems to be in agreement that if our new ADOC believes that this is the right structure, that that should be given an opportunity to play out. To the extent there's a concern that it is too much on the ADOC, I think we've heard from him that he's comfortable with that and I think we need to defer to that. To the extent the concern is perhaps that OGA won't be as much in the loop of the chief of staff knowing what's going on, I think we've heard from the chief, and Jody, that this is very much of a team approach. That there aren't silos among the executive team. I think if there were any change at all to be made, the only thing that I could envision is to put a dashed line between OGA and the chief of staff just as the COO and the CAO have a dashed line.

It might a little bit of a symmetry. Everybody is sort of connected. I'm not going to try to give it any shape or label. But I think that that's the only change that in my mind would be appropriate thinking about not that I think there needs to be a change.

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The second thing I wanted to just briefly comment on is the question that Judge De Alba and others have talked about, really making sure that there's no doubt in anybody's mind that equal access to justice and diversity remain a firm commitment of the Judicial Council of this branch and I know when the presentation was made about the SEC report, I think there were some concerns that were raised around this table, and I know that I referenced some worries that language in the SEC report or the focus of it not be misinterpreted to move away from those issues in my mind are the core mission of this branch. I think there were concerns and I think I was among those to raise them. If your starting point is a business model where cost and business issues are the bottom line, that one can end up being viewed as moving away from it. I appreciated the subtle changes that were made in recommendation three and four. The reference to the benefit of the public that hadn't previously been in there, and then I think what's been renumbered by an E&P is recommendation number four, that when we think about other projects, other initiatives, that front and center be a comprehensive analysis that would include a business case issues of business case analysis but that that alone is not the driver and to me those signal a renewed commitment and an ongoing commitment to looking to do what's in the interest of the public, what's in the interest of the community that the branch serves, so in my mind I think that that has addressed those issues, although I also think it is going to be important for there to be a continued effort made through messaging and through other communication of what's happened today to make clear that that remain front and center, and then the third thing that I wanted to say, I think a lot of credit as is appropriate has been given to you for your mission and efforts.

Justice Miller, you truly are amazing in how you have taken the chief's vision and implemented. I really want to add to that, a thanks and appreciation for the staff at AOC, as well as Jody, their leader through this time. It is not easy to face a report where you've been knocked around, where you're being asked to let go people, and to continue to stand tall and with professionalism move forward and redefine yourself and rethink what the future is going to look like. And I think whatever, you know, valid criticisms there may have been over time, I think that the last month, in particular, is an ongoing testament to the professionalism and the talent of those individuals who continue to come in every day and try to focus their vision on the future and making this work. So I wanted to underscore that as well

>> Chair Cantil Sakauye: Thank you, Miriam Krinsky.

>> In the interest of time, I'm going to call the next four speakers and then call the question, mindful of the rest of our calendar.

>> You can do whatever you want on your time.

>> Mindful of the time.

>> I just want to thank the chief for the courage of leading us to commission both the SEC report and the Pegasus report to allow us to take a hard look at ourselves and the courage of Justice Miller and E&P to with wide open eyes implement that courage and that hard look and I know we will go forward and follow these recommendations out to the timeline. I appreciate that Judge Harbin Forte comments as a former member of the diversity pipeline that recently

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published its reports and comments from the state bar, these are important objectives I think we should approach this as a (Inaudible) kind of split in terms of in terms of splitting the audit function from the actual budget function and finance function, I think that's important in terms of accountability. And finally just to get back to the technology piece and 101, I really want to address my gratitude to the SEC committee, because I think that the idea that formulation (Inaudible) must be based on the input, needs and experiences of the courts, including cost benefit analysis, I think those are important concepts that we actually are, I think, moving forward with at this time. The recent technology guidelines which is the technology an add on must not be a barrier to access to justice and fairness

>> Chair Cantil Sakauye: Thank you, Judge Herman.

>> I'll try not to lean on my call button and try not to take too much time. I want that thank the speakers. Then people who are here from the state bar who are Pat Lee and Mary Flynn, as well as Emily Vasquez a judge on the Superior Court in Sacramento, on the planning committee for the diversity summit on the bench. I got to tell you, I have goose bumps, I mean, this is so cool, chief, this is an open forum, this is exactly why my parents families fled communism, so that we could have freedom of speech, democracy, dialogue, dissent, this is really cool. Thank you, chief, and thank you Justice Miller, what I've perceived is this has really been a cooperative process. One of our judges in our state who commented among the 529 said he wanted to advise us to approach this process with an aloha spirit. I looked it up to make sure I knew what it meant. Approaching processes with love and respect and wisdom and kindness. You really have brought that to this process, Justice Miller, everyone is feeling include and I perceive some healing as well, so thank you so much.

>> Also, chief, I would add to what Miriam said about the staff, you know, I've been here for three years, this is my last meeting, in those three years, staff and Council have seen two chiefs and four ADOCs, that's a lot of change, there have been people who have been laid off and voluntarily left early to make room for others, people who have felt appreciated and unappreciated, so the fact is they have always met every challenge with professionalism, grace, and a real commitment to service should not be overlooked. I did lean on my button. Sorry.

>> I'm so short, I can't reach the mic.

>> With respect to the diversity, I think of it as really the lens with which we should see everything. Diversity, access, fairness, our structural changes are to the vehicle. We're changing the vehicle. We're more streamlined, more energy efficient, we're dealing with economic environment, but really we are all going to the same place, which is service, keeping the courtroom doors open, making sure that the court looks like our community and that we provide access and fairness to those who can afford it and especially those who cannot afford it. Thank you so much, chief. I feel like I'm leaving with a real sense of pride in our branch. What I would say lastly is aloha because it means hello and good bye.

>> Thank you, Erica. Thank you.

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>> Thank you, chief. I endorse the comments about you're encouraging the hard work of the folks. I'm going to pick up on what justice Corrigan said and go right to looking forward. So we met in the fall to review what happened in the last year, what are your metrics about what we have accomplished what we have done. I know that's a tough question to start with, maybe we make that part of the recommendation or the motion, but I would like to hear what your metrics are about what you think would be a sign of success and how we accomplished what you wanted to accomplish with the reorganization and the changes that are made here?

>> In some ways, I think the SEC report which has now been reformulated by the executive and planning committee and to a structure forms the template for those metrics and it seems to me that it is not just the volume of things that we can report have been completed, but the scope that we have been able to accomplish. So I suppose I don't have an original thought in that regard other than to say that we're duty bound to do things deliberately, not destructively and in an organized way that is not something that will disturb the ongoing daily operations, and as judge McCabe indicated do so without without jumping the gun. By the same token without dragging our feet.

>> Judge So.

>> I have a series of substitute motions to break up the motion essentially of Judge Baker.

>> Point of order, Madam Chair, I heard Judge Baker say this was a proposed motion, so I don't know that he actually made the motion.

>> It was seconded. So let's hear it.

>> The first three deal with the executive and planning recommendations which correspond to the SEC recommendations. Recommendations of E&P 2, 3, 4 and 5. If you would look in attachment one correspond to SEC recommendations 4 1 through 4 4, I think it is important to group those together, because essentially it talks about the commitment and what the Council needs to do in bringing this branch forward, so I would move approval two three, four and five first.

>> On behalf of Judge Wesley, I'll second that.

[Laughter]

>> I'm going to call the question, I think then you're going to go to structure

>> That's right.

>> Okay. So you know, there's a road map.

>> It has been seconded by commissioner Alexander, and so all in favor of the motion pertaining to E&P 2 through 5 regarding Judicial Council oversight that correspond through four through one four one through four four of the SEC, all in favor say aye?

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>> Aye

>> Any opposed?
Thank you. Matter passes.

>> The second deals with the the organizational structure of the AOC and exciting our oversight responsibilities, I'm making the motion that we approve the recommendation of Judge Jahr and Jody Patel as far as they have described it today for the organizational structure of the AOC.

>> Second.

>> Seconded by Miriam Krinsky

>> On behalf of myself not Judge Wesley.

>> All in favor say aye.

>> Aye.

>> Any opposed? Matter carries.

>> Third motion.

>> I move approval of the remainder of the executive and planning recommendations as set forth in attachment one.

>> Seconded by Justice Hull.

>> Judge Baker.

>> I'm fine with that.

>> All in favor say aye.

>> Aye.

>> Any opposed?
Matter carries.

>> The fourth motion deal with justice Hill's working group, that includes oversight of maintenance and management of court property and facilities to Justice Hill's working group.

>> I'll second that.

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>> Thank you, Judge Jackson. All in favor?

>> Although I appreciate that, it is actually Judge Powers.

>> Thank you.

>> Modification and maintenance working group.

>> You thought it was.

>> I'm glad I stayed, that's all I can say.

[Laughter]

>> Judge So takes that friendly amendment.

>> All in favor?

>> Aye.

>> Matter carries.

>> Thank you. This is in my view a moment for the books. And so we will be anxious to hear report back and the involvement. Judge Miller, happy belated birthday, E&P, SEC, 529 contributors and the impassioned comments and remarks of counsel. Thank you.

[Applause]

>> I'm going to ask your indulgence and your patience to take item K now which a 15 minute item. Before we take our lunch from between 12:00 and 12:30. This is children in foster care report from the blue ribbon commission on children.

>> Welcome, Justice Huffman. We're all here. Some are standing, but we're all here ready to hear the presentation. Thank you for being here.

>> Thank you, Chief Justice and members of the Council. Thank you on behalf of the Blue Ribbon Commission on Children and Foster Care for giving us time on your rather busy agenda and respectful of that I will be fairly brief in these comments. When I was here in December this last year I reported to you the progress of the commission on implementing its recommendations and at that time I had not yet had the opportunity to travel to New York with the Chief Justice to attend the National Leadership Initiative on School Justice Partnerships called "Keeping Kids in School and Out of Court." The conference that is focused on school disciplinary practices and policies that push kids out of school and into the justice system and upon our return from New York the Chief Justice charge the Blue Ribbon Commission with creating an initiative to end this state, to keep kids in school and out of court. And she let us know that she would like to host a

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California focused summit similar to that which was done in New York if we can secure outside funding. I'm happy to report that I've assigned—I'm very good at delegating the hard work to other people—and Judge Stacy Boulware Eurie of the Sacramento Superior Court has agreed and has taken on the project of a working group that we call the "Truancy and School Discipline Working Group." And it draws from both within and outside of the Judicial Branch including representatives of the Department of Education ,and they've have made extraordinary success in stimulating interest, not only within the branch but outside of the branch, on going forward with this project. So I'm here today to get your approval to ask for private grants to fund a California summit on these issues, and we would like to plan that event for some time at the end of 2013, so we need to be here to ask for your approval. Some might wonder, particularly in these times, you know in light of our fiscal problems, do we really need to do this now? Should we focus energy on this initiative? And my answer is "absolutely, and now is better than later." In December, I told you that on behalf of the commission we were afraid that the budget cuts that the branch is taking are going to cause delays in the Juvenile Dependency System and our ability to manage the calendars and achieve timely outcomes for families and children because of the closure of courtrooms, the loss of commissioners, the loss of staff. Indeed as you know, much better than anyone that has happened. We have those courtrooms closed and we are laying off far too many staff, and now more than ever we think it's important from our perspective to take the initiative to keep kids in school and out of courts. We need to take the steps also to achieve some better outcomes I think for our foster children in this regard. Just some numbers—we know that in the 2010-2011 school year 30% of California's children were truant and although we don't have data on discipline among foster youth on a statewide basis, we do know from other studies that children placed in foster care have more school suspension than comparison groups. For example, in the Los Angeles Unified School District, children in foster care were three times more likely to be suspended or extend than other children in the same schools, and studies have shown us that even if we control the studies for poverty, the racial disparities and suspensions and expulsions exist at an alarming rate. Excessive school discipline has been found in a ground breaking Texas study that almost one quarter of the school involved in the school disciplinary system had contact with the school justice system as compared to 2% of the other students the same circumstance. As the discipline goes up, the gap between the non-discipline students and those with regard to juvenile justice he counter widens dramatically. A successful truancy school discipline promises to cut court costs to help to end the by stabilizing the children in the school environment, and helping to get to permanency by either way of unification, and for those who deal with the juvenile justice staff as far as delinquency we know that the more children we kick out of schools the more children we put into the juvenile delinquency system and we all know what the outcome of those are and we put them in the criminal justice system when they graduate from the juvenile system. We know there's a problem. If I haven't convinced you that this is a good time to proceed, I want to turn this job over to a higher authority. In state of judicial address, quote, you might ask why school justice system is a justice system issue. When they are not in studies, and when children do not graduate from high school it does not take a great leap of logic to know that they are at risk of entering the juvenile justice system. The judicial system cannot wait, and we need to create and create the partnerships needed to return these children though their schools and become productive members of society. Let's get to work. Having that in mind, I would ask the council to grant the commission permission to request private funding sources to facilitate the convening of the statewide meeting to focus to state truancy and issues, with focus on those issues that affect children and youth in the juvenile

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court and the juvenile justice system. I thank you for this opportunity. I would be pleased to answer any questions that you might have on this important subject.

>>> Thank you, Justice.

>>> Yes, Judge de Alba.

>> Thank you, Chief Justice. There's a wonderful program, perhaps you're aware of here in San Francisco between the district attorney and the juvenile court and I forget the honorable judge's name here in Sacramento -- in San Francisco?

>>> They have to do it.

>>> And they have a fabulous program where they recently reported 20%, 25% reduction in truancy. I don't know if you are aware, as a potential source and support of your work, the other thing is I recently on behalf of the chief testified before a special committee in assembly on boys and men of color chaired by assemblyman Swanson, I believe from Oakland, so I would commend your commission and, again judge to his staff, they have done a tremendous job of canvassing the state of California juvenile justice education, law enforcement, community-based non-profit organizations, for all sorts of data information, contact, in other words, things that I'm sure your commission and or judge's work group can utilize.

>>> Thank you, I'm informed that the person from San Francisco is actually on the judge's work group. One of the things I hope in answering and gathering all of these different ideas and programs, among other things when the blue ribbon commission made the recommendation that the enacted in 2008, we made a blue ribbon commission inside over 40 court systems in California and within them they have among other things school officials and others participating and we hope that we can utilize those people as well. Within each one of these, they have come up with wonderful ideas and what we would hope to do is bring those ideas together, steal those that work, take credit for them if necessary
[Laughter]

>>> But this is not something the court can do or any one entity can do. This is a community problem that requires the educators, it requires the social workers, the court, the law enforcement agencies and the legislatures to get behind it. We were hoping with your backing and with the chief's direction that we can facilitate that.

>>> Judge Rosenberg.

>>> I have one technical motion, if a motion is made to authorize you to seek private foundation funding, will that motion be limiting so that you cannot -- wouldn't be able to seek public monies from school districts or federal government, things of that nature, or are you seeking only private foundation funding?

>>> Well, our focus has been on private foundation funding, but of course, my experience with Diane' Nunn's group is that they get money from where they

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possibly can to make this work.

[Laughter]

>>> I wouldn't want to limit your options unless you just want to get private foundations funding.

>>> No, we don't want to the options limited. Even the private foundations without the council's agreement that this is what you want us to do.

>>> Justice Hull.

>>> I have more to judge Rosenberg's question, I don't read anything in the commission that would limit you to what the funding sources that you seek. Is there anything, I mean, are you constrained in anyway?

>>> No, we are not. Our belief is that we were going for your authorizing going for private funds if we can find other grant funds, we didn't think that would come within the scope but for us to go seek private funds, we believe we should bring this to you and get your agreement or direction.

>>>I understand, thank you.

>>>Thank you.

>>>Miriam Krinsky.

>>> I have a couple of points and then I will try to cast a motion maybe taking that point in mind and expand the language a little bit. The point is I want to, again, chief, thank you. You really took this mantle, and took this baton and ran with it. You know, I think when there was an effort made originally to hold a hearing of the select committee on youth development delinquency prevention in this very room, a number of months back, there was a question made as to whether you would be interested, whether it's something you would be committed to and you didn't simply engage, but you became an expert on this issue, and I think that this is a real testament to the understanding that isn't an issue that simply relates to schools, if we can keep kids in school, we are able not simply to do the right thing, but also to save the court the time and money of having to deal with these problems. So I think some could even look at it as a good business decision. I look at it as not simply the right thing to do, but something that as has been said, when you open a school door you open close a prison door. And I think that this is an issue that appropriately is not simply become a priority for many in our state, the legislature, the chief through your action, and others, but it's a national priority issue, the attorney general, and the secretary at the head of the department of education

have created a national initiative around this issue and the convening in New York was one element of that. I'm sorry. I'm going to turn that off, which I thought I had.

[Laughter]

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>>> That is my time.

>>> Are you interrupting yourself some?

>>> Yes, I didn't press the cough Button. It was a different way. So I think that trying to look for the continued leadership around this issue, I mean it's vitally important and would have tremendous positive impact on the court's system. We know as Justice Huffman said that California has the worst record in the nation, we have more expugses than any other state -- expulsions than any other state. We have a truancy rate and disproportionate, and we know when kids don't perform in school, they are going to end up in the courts and the justice system. So I would like to move approval of recommendation number one with a slight modification that there be a search for outside funding sources and continue the way it reads. Secondly, I think recommendation number 2, that there be a more robust report to the council, sometime toward the latter part of this year, that really engages, the kind of dialogue that you started. What are courts doing? And how can we sort of understand what some of these practices look like and what some the best strategies look like. I would like to move approval of that and I also as a final thing as a point of personal privilege, after the vote I need to head to the East Coast. So you will be leaving, but I did want to, again e tell you all, what a pleasure and privilege it's been serving and be able to see such inspiring leaders in action. So thank you for that privilege over these last three years.

>>> Thank you, Miriam.

>>> Second, by Judge Rosenberg.

>>> I don't hear any further discussion. All in favor of the motion as amended say aye.

[Chorus of ayes]

>>> Matter carries.

>>> Go forth, Justice.

>>> Thank you, Chief Justice, we will do exactly that.\

>>> We're going to break until -- for our lunch to reconvene at 12:30 for the rest of the our agenda. Thank you.

The meeting will resume shortly.

>> I'm sorry. We finished item K. Item L. The courts of appeal Judicial Council AOC in the trial courts. To see Stephen, and welcome back, Justice.

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>> Good afternoon, Chief and members of the Council. Yes, this issue is to discuss the budget change proposals that we will be submit to the Department of Finance for their consideration. In the state of California the budgets are on done an incremental basis, mean we don't reexamine the entire budget but readjust on the the margin and the way we get budget adjustments would be through this process that addresses increases and if we had the fund, the policies and programs that the branch would like to pursue. For the '12, '13, '14 fiscal year we have to submit the PCCPs. And annual budget letter that describes the position of the administration relative to new funding requests, and in my 14 years at the Department of Finance and now, I'm here with the branch, the policy letter that was issued this year was the most restrictive that I have ever seen. It narrows what they would include the fall for the governor's budget, it's driven in part by that the November initiative and the vote is out there. They do not want to be in the process of evaluating new spending requests when they conceivably could be looking at additional cuts, and setting even aside the issue of the initiative, we have the enact that a large assumption in the assumption in the budget was the sale of the facebook stock, and that is not as fruitful, so they're going to lose some revenue there. In your packages, as I said you can see the policy letter for your reference, if interested The council must approve any budget change proposals that go to the Department of Finance and that is the process that we are engaging in today. What we do, and look at technical budget need of finance across the Supreme court, court of appeals and the AOC.

And this year, looking at the budget change proposals in the light of the conversations that we have had with the director of finance, we know that these conversations are going to establish the perimeters under which we will be engaging the budget building process with the Department of Finance. I this we are looking forward to this partnership that was addressed yesterday by the director. This is the beginning process with the administration and budget building. And we have kept in mind the fact that there are limited resource this has fiscal year as there have been in prior years and we're taking a little bit of a different tact than was done last year in terms of requests. There are fewer requests than were submitted last year for the Supreme court courts of appeal and AOC, and for the trial courts, the suspension of the state Appropriations limit adjustment which was something that was short-lived as a way to provide stable funding for the branch for those of who are not aware. There was a time when the branch got an automatic increase to its budget to provide for planning purposes and that was suspended a couple of years ago. So with that being suspended, we need to look at how we fund trial court needs. So in terms of branch-wide proposals there are things that are all encompassing of the branch, and they relate to a couple of areas that the Department of Finance says they will be willing to entertain this fall. You heard director Monte Santos, on numerous occasions if you have ideas to save money we want to see these. These were the efficiencies that were brought forward to reduce costs and to generate some efficiencies. That is being submitted to the Department of Finance, we have a new legislation that will be signed by the governor, has been signed or we expect to be signed by the governor. For example, the homeowners bill of rights, as you heard, is going to bring a lot of additional causes of action, and we attempt to model some bare cost there. We need to let the administration know that you can't keep on signing bills that impose cost on the branch while cutting the budget. It's incumbent upon us to put forth the fiscal cost to the administration to let them know what the branch is facing. So with respect to the Supreme Court and the court of appeals, we looked at their baseline budgets and are trying to determine how best they can manage their operations within the available resources. We are looking at a very specific proposal for the Supreme Court. We are look at realigning their budget, which, again, is

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something that was allowed by the Department of Finance, a realignment of budget resources to determine a minimum funding need for the Supreme Court. We're also looking at, technical adjustments relevant to looking at newly approved revenues to support their operations. With respect to the trial courts we will continue to pursue, what are called base-line budget adjustments. They are not considered policy budget change proposals, and they reflect some major cost drivers for trial courts relative to retirement employee, benefits. We are working closely with the Department of Finance to determine what the appropriate needs, and working work load as you may be aware, the branch is going to be taking all revocation, hand work load starting in the 2013-14 fiscal year. We have no generation of our side what those workloads will be, we are working with the department to determine what the resources are we need for the '13-14 fiscal year.

We won't be pursuing a general restoration approach. We had numerous discussions at the trial court budget working group and with members of the council to talk about what is our best approach to address the problems of the branch. And when last year we put a funding request, and some said what it got was a cut of that amount and more. We have to be more strategic about what we're doing, with that we're going to be providing an outline of the impacts of the branch of the budget cuts in the same vein that you described to the director of finance yesterday, letting them know that there are major major impacts bought we want to work with them he through the fall budget process to see if there's something we can do to try assist the branch budgetary. So with that we decided we would take a specific sort of budget approach for areas that we thought were justifiable in a smaller sense rather than this global funding request. And the first issue is requested to trial court audits both done by the bureau of state audits, and the state controller. There's audits that have to be performed regarding the implementation of the contracting manual, and there will be financial fiscal audits that will need to be the completed as well. And so this is an unfunded mandate, and in fact, as it stands right now we have the BSA wanting to work with the Sacramento court without any contract to want to reimburse them for cost. We have tried to make that the branch has been cut and there's no resources and they're still expecting us to reimburse that.

>> So clearly it's an issue of major concern because every court and every aspect of the branch is going to be audited. We have to put on the table that in this era of cuts, you can't expect us to pull money out of budgets that don't have funds to expand that level of expenditure. They're going to let the BSA know that if you want us to pay for this, these are the three employees that we're going to have to layoff. It's gotten to that detail. Clearly it's an issue we want to pursue given that all parts of the branch are going to be impacted. It's been an interesting process with the BSA. So far this year we have six courts selected and we are working again to see how we can fund those costs. The next issue is related to critical case management systems, we are going to be putting forward a request for those courts that have systems that are on the brink of failure. We know had that's an important issue and we did raise that issue with the director of finance in a meeting we had about a month ago. We said, what do we do if a court is about to fail and all the justice partners can no longer have access to the necessary information? That to her was a critical need, even in light of the reduced revenues coming into the state for the overall budget. In your materials we discussed the sustained case management system prior to this development of this PowerPoint. There was this concept of going forward with this request,

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but we have got additional information such that we don't want to pursue this particular issue any longer. If there's any concerns, Kirk has details to offer.

>> Just at this point in time, chief, the issue here is that the courts and their 16 that currently on the sustained justice edition, there's a contractual requirement that the company has to they will continue to support the sustained justice addition for a 3-year period until, unless there's no notice given. So if there's notice given, the clock starts to tick, and there has been no notice given. So I would characterize this in terms of the upgrade of the E version of sustained as a want versus a need at this point. And this was vetted with the technology committee yesterday in terms of being tactical, and the cover letter that will go to Department of Finance will reference the future need for some replacement systems for sustained, that this point in time our fear is that if we submit it to the Department of Finance, we're simply going to ask that one question, how long are you going to have support for it? Since three years is a period of time, we would ask that this be withdrawn.

>> The next issue relates to a problem that occurred when the proposal to eliminate fund balances and the $235 million reduction to fund balances was included in the budget. There were three courts that had set aside funds for facility needs, Santa Clara, Alameda.

And in our conversations we with the budget group, we thought there would be some level of rational to replace the funds. But in discussing it further we're finding it difficult to justify this request for general fund resources when there's still fund resources available for the trial courts for the support of the effort, and so we have discussed whether or not we should pursue this. My concern is it will look as if we are wining about the cuts and so we need to find a way to deal with it, and having this before you, I expressed concern about pursuing it given the sort of complexity of our overall construction program, and the fact that there's still some level of resources within the branch to help address this. So, I'd ask that if that particular issue if there's any interest in withdrawing it, that you would consider that and would consider that when we take the action.

>>I turn it over to the judge Huffman to regarding the AOC BCPs and the A&E committee's over sight.

>>Thank you, the financial accountability and efficiency committee has been charged by the chief justice and executive committee with reviewing budget change proposals for the AOC. That is really the extent of the direction, and it's at times difficult for committee to figure out exactly what their role is. One thing we do believe strongly that we are not in the position to recommend priorities to you, budget strategies and priorities are bigger issue for the council. We review these really looking at how they impact the administrative office, and whether it adds positions, whether it makes different changes in their role, or its purpose. Now the 3ECPs that are involved here all relate to trial court facilities. They are requesting general fund money for expenses, at least in two of them that will in fact be incurred whether or not the BCPs are needed. The first 1 has to do with the Long Beach courthouse service fees $38.2 million, having to do with the lease payment that is required by the project agreement. The proposed full year cost adjustment, 2013, and 2014, and $28.2 million, the request is contistent with the Department of Finance 2008. The project agreement that was entered into by the Judicial Council and the AOC and the ALLC were design in construction and includes this particular fee, and the

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agreement itself was reviewed and approved by the Department of Finance prior to the award in December of 2010. At least as we understand it, this fee has to be paid by the courts if we don't receive this augmentation of general fund money, then you will need to find $33 million to pay from somewhere else. Though, the A&E committee for our purposes recommends approval of that. The second one is increased operations costs for new and renovated court houses having to do with increased facility for 10 newly constructed or renovated trial court facilities, that is $3.312 million. These request resources as an offset of the payment or an effort of payment that we received from the counties. It SP1732, 2002 states ongoing operations and maintenance in court facilities that are in excess of the county facilities payment be provided by the state. The new and renovated court facilities are located in contra costa, Fresno, mono, Sierra, Oliver as, San Bernardino, and Tulares County. These do not approve costs for those facilities or maintenance are going to be have to be absorbed within existing resources which will result in the reduction of funds for court operation and maintenance. Again, on that basis the A and E committee. And the last one has to do with the risk management program and this is a proposed general fund augmentation to transfer to the court facility trust fund money to purchase facilities related insurance for effective risk management. Again, the county facilities payments remitted provides $3.86 million related to insurance costs associated with transferred facilities. Those funds are based upon a 1999, 2000 insurance cost. Obviously property insurance costs have increased as well as public liability insurance costs. The county facilities payments don't provide enough money to reach the estimated $5.6 million needed to provide effective risk management. We are told currently 48% of the California buildings in which the AOC retains all or a portion of the risk and loss or damage are uninsured. And given the diminished funds available to the judicial council, as a result of the various redetections and loans from the facilities construction funds. It seems to be A and E committee that it may be prudent to not have the risk of a major loss that the council would have to absorb in an uninsured facility. So again, on that basis, the A and committee felt it was inappropriate to advance the council. If there's any further from the finance department that they wish to add to that. But it was the registration of A and E that these 3BCPs be approved.

>> Before we get to the recommendation let me offer this. In addition to working on the BCPs a we forward and working on sort of educating the Department of Finance, I know that there's -- the Department of Finance is going to be looking to reconfigure the budget display. There's going to be a lost work done to get to this goal of more transparency and more information, so what I think I would offer if I had an opportunity if there's been much progress made by our next council meeting that I would give you an update on what it is we're doing on the Department of Finance, in terms of this proposal as well as other major budget issues that may arise. Because I think it is important that we provide you feedback on this at the council level. We will certainly be doing it with the members of the budget working group and others, but in terms of keeping you informed as a council about the discussion and how they think that the budget should be displayed to provide greater transparency, to get to the goals that the director Monte Santos was discussing. I think it would be worthwhile to come back in the October meeting to give you an update in terms of how the budget development process is going in addition to looking at them sort of the status of the BCPs.

>> In the last proposal, this was proposal that was rejected by the review of the Department of Finance. We want to step back strategically and evaluate. Are there any other alternates or

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options that we can take a look at in the executive branch all buildings are self-insured and to some extent our buildings are self-insured. We want to make sure that for whatever reason we can get from the we account for those concerns that they may have.

>> David, tell us.

>> I'm sorry. I will hold my remarks until the recommendation.

>> The recommendations are from at E and E committee are the council approves the 13-14BCPs but delegates authority to the administrative director make technical changes to the BCPs in terms of what they heard if there's a further examination of a particular issue that it be revised or withdrawn as necessary. We as a staff recommend that you approve submission of the Supreme court of appeals and trial court funding requests and that you also provide us necessary technical adjustments to the BCPs before they're finally submitted to the department of finance. Are there any questions?

>> David?

>> Thank you, chief. Thank you, Justice Huffman for your presentation. You commented about one of the issues that was a part of our discussion relative to the monies that were swept for core construction and you did report that we were one of three Santa Clara is one of three courts that lost millions of dollars that were set aside for a project that we had and we certainly appreciate the efforts that you have undertaken to try to explore the opportunities to somehow restore or backfill that money. And you know, when we heard initially that the money was going to be swept, because monies could not be earmarked and would be protected, we were very, very concerned whether we would be able to meet the target, the financial target to fund our project, but with the work of OCCM and some of you thoughts that you had, there may be some opportunities to look within the construction budget for monies that might be able to accommodate that deficiency. But I would agree that for us to proceed with the BCP relative to this project, I think it would be very problematic given the fact that the monies that we would be obligating were not necessarily monies in our project that would need to be spent this year. Certainly this is a long process, and that perhaps, there will be some opportunities to find monies that can make up some the differences in the gaps that we have there. So I do support the recommendation that you made on that specific subject.

>> I appreciate that, David. I would offer that as part of the working group at looking at reserves that we have to educate the Department of Finance, that since we don't get resources outside of the state budget that we're looking internally and in sweeping funds like these that we do have a direct impact on the operations of the court. This is one of the issues that we will make sure of part of the conversations appropriate pots, transparent and known to all but it should be part of the overall discussion for reserves.

>> Thank you.

>> Thank you. The courts that are under construction, and will be done the fiscal year and will be done for funding. I agree with you that we will have to proceed carefully. This will

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sound selfishly. My concern is when we go to get monies for those project, how will it do for the rest of the queue. How will it be received? For some of those courts they may have reserves this year or that year that they can put toward that project and perhaps, we could approach the Department of Finance and come up with a balance of here is what we can fund, because we do have reserves, and we are not asking for that in two years with other subsequent projects, we will have to start asking for it. So we need to work collaboratively on that solution. I don't think our construction funds can take any more hits, and I'm very concerned when we come in and we say, okay, now that we built some courthouses, this is what it's going to cost us. I'm afraid, I'm afraid what type of reaction we will get. It may be that they won't build anymore courthouses. I appreciate that you're sensitive to that, and it sounds like you will proceed cautiously and that would be my suggestion, is that we do proceed cautiously, perhaps by showing how we are trying to use existing funds while we still have them. Perhaps, it will be an incentive for them to let us keep some more, especially for the courts coming. I know that I did provide comment with the facility working group with respect to this issue in the process. They're going to be going through it next week. It's unfair for the projects that will be coming post fund balance to -- to make them demonstration how they're going to absorb these costs. We're all going to be in the same boat, but that I did emphasize that this is the reason why, as we design these new courthouses, we have to keep in mind that day one, there may not be any new funding to operate, and you have to take that into consideration with your design. So thank you.

>> Do I hear a motion?

>> I'll move.

>> Second.

>> Judge Rosenberg moves, David Yamasaki seconds. Any further discussion? All in favor of recommendations contained on page two of this item say “aye.”

[Chorus of ayes]

>> Any opposed? Matter carries, thank you. Thank you for your presentation.

>> For 2% of state level reserve funding. We welcome Judge Rosenberg to the panel. Thank you.

>> Thank you, Chief. Members of the Council. We've kind of divided this up into two segments. We have item M and then soon we'll get to item N, they are both the trial court trust fund allocation issues and decisions. I'm going to turn this over to Zlatko in one minute. I wanted to highlight we had a trial court working budget group of 15 PJ's and 15 CEOs as well as I believe three AOC non-voting staff members. The group this year was co-chaired by Zlatko and myself. We made, I think, a good efficient team. I want to highlight the fact that there are four other members of the trial court budget working group who sit here on the Council and I

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would like to thank them as well as all of the members of the working group. We have Judge Earl who is an incoming member, who is an active working of the group. Judge Elsworth an active member of the working group. Allen Carlson, a very quiet [Laughter] kind of a laid back CEO member of the working group and David Yamasaki, all members of the working group. It really was a great group. We did a lot of our work in subcommittees, many of the recommendations that we present are out of the subcommittees, all subcommittee recommendations were vetted and discussed at the trial court budget working group and all recommendations are in fact recommendations of the working group. Many of them had relatively minor short discussions, some of them had very extended discussions, there were of course disagreements on some but most of the recommendations are unanimous, some of them had some split votes but they are the recommendations of the working group.

I think the first thing we're going to deal with is the 2% state level reserve.

>> We had a template that we were fortunate to be able to start with. Just a few months ago we did adopt a process for emergency funding, we used that as a the starting point for our discussion.

I look forward to the continued work of the budget working group. We have a lot ahead of us. With judge Earl coming in and whatever we move forward I have looked forward to the relationship a good improvement to the process to have a co-chair. So yes, the 2% reserve issue was discussed at the Council meeting last time in terms of the method by which we would take basically court funds to create this fund for emergent needs and that generated 27.8 million dollars. That it was taken from courts and ultimately will be returned to courts, not necessarily in the same level, but it will be returned to the courts by the end of the process. We had 8 members on the working the subcommittee for judges for CEOs and we had a number of meetings in which we worked on what was done and Judge Rosenberg says a few months ago, it was 10 months ago that we adopted the urgent needs process given the problems that had come about from last budget cycle, and so there is specific language in the statute regarding the timing and process for us to follow, and so to some extent what we were doing is melding our old process with the new process and there was some opportunity for interpretation and decision making by the Council.

So, again as we discussed, we met several times, ultimately this was vetted by the budget working group and there were conversations about some of the parameters, the subcommittee wasn't fully able to come to conclusion. We brought some open issues for the budget working group to take because there wasn't a consensus, and I think that's good. If you can see the numerous recommendations, you can see them on attachment A. I'll just go through them quickly, if you have questions, we can go on.

We maintain the concept that you have to have a negative fund balance to request the resources as defined as urgent needs. The statute defines the urgent needs as unavoidable findings unanticipated expenses for existing programs. Should we start to narrow the definition, but every time we started to put a boundary on it, we felt we could find an example that was outside of that. That was a good conversation that the group had in terms with struggling with putting anything more than what's written in statute.

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We had to manage the timelines that were provided for in statute. The first sort of requests have to be submitted by October 1st with decision by the Council by October 31st for unavoidable funding shortfalls. Then in terms of subsequent or in terms of the timing of that submittal, we felt that you could request it before October 1st, there wouldn't be action until October 31st, but we didn't want it to come the day after the budget came out. We provided for a 60 day period after the enactment of the budget. There may be actions that may adjust where your budget picture is. Important to give you time to deliberate locally before you would come to the Council for funding requests. Any requests post the October 31st process must be submitted by march 15th, but no later than 25 days before a Judicial Council business meeting.

Another issue that we wanted to tackle was the concept that there would be repeated and annual requests made for resources. This wasn't intended to be a pot for ongoing shortfalls, there might be a situation where if you did come in if you were going to come in and have a clear and convincing showing of why you were doing that. We'll get to some information that the court would have to provide if it were coming in with the request to try and avoid a future need.

For those courts who were submitting by the October 1st deadline. They could not receive any more funding than they had initially contributed to the pot. But to the extent that they additional resources that could be reevaluated after the first allocation at the end of October.

Another issue that we were struggling with, if you had received resources up until the beginning of the process there is an end process in which any unspent funds are then distributed on a pro rata basis. The conversation was should we include those courts that had already received funds, but ultimately it was determined that the statute is clear that courts shall get whatever is remaining on a prorated basis. You would still get a share of the left over dollars.

Just a quick question on that. You said that's what the statute requires, that there be a pro rata distribution?

>> Yes.

>> The first thought that went through mind whether or not unexpended funds could be somehow applied to what would be known as historically underfunded courts. The following thought on my part was because of the duration and the depth of the under-funding could become very confusing and perhaps very divisive that equities suggested everybody get an equal share but that's all academic because this is what the statute requires.

In terms of under-funded courts we have had a good discussion at the budget working group about revaluating the method by which we determine our funding needs. That is a separate and apart issue, something that the budget working group is going to be looking in terms of the model of what courts are funded above or below any particular line

A very simple question that we had years to try and figure out.

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We're going to give it back the way that it was taken. So there's a consistency, in terms of the process, was your trust fund and general fund, the amount that you have that was a calculation of your share, that's what you'll get back. As we took it, we'll give it back.

There was another point that if in the preliminary estimates of your need it was determined as you went through the fiscal year that your position had improved that we would ask that you return any unused funds so they would go to the pot, so that you don't hold on to them unnecessarily. I don't know how often that will happen, we thought it was important to make it clear, that if you estimated you needed a million dollars and it turns out they only used 750, that that 250 would come back to the pot for redistribution either by courts who need it at the time or pro rata share at the end of the year.

What was important we felt was that we get a five year history of employee compensation and staffing levels. That was a good indicator of what you've done from an employee compensation and staffing, have you been reducing, what have you done in terms of raises and stuff like that. I think that was a good discussion there. We did tweaking on the information judicial case load. It was helpful also to get a sense of court workload that you have.

And this was an important issue as well, was explaining what it is that why you need the funding in the current fiscal year if you had gotten it in a prior fiscal year, this is that clear and compelling need. In some cases it might take a year or two to get beyond that fiscal breaking point, we wanted to make it clear that you can come and ask, but you really have to establish we're establishing a bar that says we need to understand as a Council what your plans are to move out of that fiscal problem. So to that we made it very clear that they have to include a plan that shows how they will work their way out of the budget problem in the next fiscal year, and I recall when we were doing this process before and San Joaquin was here. What are you going to do to not be back before the Council next year. We're making it an explicit issue now that you should be providing us some level of information so we can assess are you on a track to improve your fiscal condition.

>> This one is not in relation to a one-time event.

>> Right.
>> Like a roof collapsing, or flooding, it is for a
N ongoing issue?
>> Yeah. Sort of core costs.

>> Chair Cantil Sakauye: Justice Hull.

>> A number of us had set through a request for emergency funds, this is slightly different, part of the conversation whether or not the funds should be deemed to be loans to be returned. Is that outside of the discussion we have here? Or is that something that the committee

>> The form does provide that you can request it as a loan or a one-time allocation, we worked off of the template from last year, that still is an option for a court to request.

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>> Thank you.

>> Do keep in mind that this money is essentially taken from the trial courts to be redistributed to the trial courts, I don't expect many loan requests.

>> That was my thought. No, I doubt that. Really this is their money to begin with, so to ask it be returned to them in the nature of a loan would be inconsistent, I take it, with what we are talking about.

>> San Francisco has repaid their 2.5 million dollar loan. What was approved last year was returned to the fund.

>> I have a question on when you first started the presentation, you mentioned that I think I heard this, and so correct me, but that in order to be eligible for receipt of this money that the court has to have an anticipated negative fund balance; is that correct?

>> Yes.

>> And I don't see that in the conditions or maybe you could point to it? Does it need to be in the conditions or definitions?

>> I'm trying to remember if we had it established in the material

>> Is it one of the conditions?

>> I'm looking at the update.

>> Is it A

>> Where is it?

>> It is the very first one on the… it's not the very first one.

>> It is on attachment C.

>> On attachment A summary of recommended process criteria and required information and it is item small A.

>> So when I look at the recommendations on page 2

>> It is not in there.

>> Okay.

>> The amendments are to the existing one.

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>> Okay. Thank you. Thank you.

>> Probably should have just repeated them, to make it real clear.

>> Sure.

>> Okay.

>> Thank you.

>> Thank you, co chair, for finding that.

>> Not yet, I'm not dead yet.

>> I mean

>> So any questions or comments? End of presentation slides?
Judge O'Malley.

>> I am thrilled with the recommendations, I think it is just very thorough, I think it is very fair, I think that people who are going to be requesting, you know, monies are going to have to give the Council information that's going to be able to give us an allow us to make an informed decision on who best requires and needs these monies and I'm really grateful for the input of the committee of eight. I think it was thoughtful, thorough, and it really is going to give us a very informed basis on which to make these very, very difficult decisions it was a very good job, thank you.

>> Chair Cantil Sakauye: Judge Ellsworth.

>> I was on the committee and we wrestled with a lot of different things, one of the things I think we wanted to convey was that the Council would be able to look at any given court, especially those requesting more than one time, and more than just the clear and convincing or whatever language we use, it was an attempt to allow for not only the Council to have a priority and if this court doesn't get priority necessarily because they have already received before, also to examine the type of things and protocols that have been in place to not only operationalize how things are, but to kind of go and since there was such an inequity of sweeping of these reserves, it starts to bring that playing field up, where you have to examine your own courts and how your how you're spending your money and how you are trying to be more efficient. You look at everyone and we're trying to equalize the needs and then examine in a way that is trying to be helpful. It allows for other courts to help other courts in terms of trying to figure out what you can do to be more efficient so that you aren't a repeat individual or even if you are asking for the first time, what are you doing to make a difference in your own court.

>> Chair Cantil Sakauye: Thank you.

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>> Chief, let me just say that we are really if this is adopted, we're entering kind of unchartered territory in many ways. We got very few requests for emergency fundings, under the prior, I anticipate numerous, numerous requests and this Council is going to have to sit as a decision making body on many such requests.

>> I think there was a question.

>> Angela Davis.

>> I also commend the work of the committee. It seems very challenging. One thing that just occurs to me in reviewing the form and also having heard the comments that we heard yesterday is the question regarding the employee compensation levels and staffing changes I think it critically important in this environment and I think it is actually something that is going to become an increasingly big issue for the Council to deal with. Compensation levels and how uniform or not uniform they are across the judiciary not just in the AOC but in all of the different courts, who is giving all kind of bonuses and who is not. When I look at the actual form with the forms please describe the employee compensation changes paren, EG, not including, but EG, cost of living adjustments and contributions and staffing levels it just occurs to me that as we start getting people to fill this form out, I think there will be variation in the level of specificity and detail that we get in response to that question, and I mean, I would actually like the question to be more specific and include maybe even have a chart that we require them to fill out. Not because because there's so many different things that people can do, they can cash out vacation time, new hires, temporary hires, we need this information not just in terms of making decisions, but also in terms of getting control of this issue which I think we have to do

>> And I would offer, Ms. Davis, it is a fair point, what we'll do is have the subcommittee reconvene just to help frame a template of response. And I think what we have done here, we would have needed to look back at the process we approved last year anyways, and we would have had refinements. We'll always have improvements as we get this. I know they'll always be the next unanswered question that the Council asks, I think that would be fair, just to sort of refer that particular piece back to the subcommittee to be determined.

>> That should not prevent the adoption of the recommendations.

>> Not at all

>> That kind of detail, so we can compare apples and apples.

>> Make sure you're getting all of the same information from the court. Everybody is having to disclose all of the different ways in which those things can happen. Excellent point and I think it should be standardized, you know, fill in the box exactly, so that we really get all of the information.

>> Alan Carlson.

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>> The problem is even if all of us got together we wouldn't think of all of the right boxes to fill it out. For example, what we have discovered in other things, there are benefit programs or management benefit programs that the rest of us never heard of that we discover a court has, I'm not saying it wasn't improper to do it in the first place, but suddenly you say, wait, if they got that benefit program, add to all of the other stuff and it is very hard to come up with a chart that thinks of everything. Another example is a court that had done a salary survey and adjusted all of their salaries based on a salary survey. Some of the courts they included in that, some of the counties weren't comparable counties. So if you're including San Francisco or Marin for a county and Imperial, we wouldn't have guessed that and put it on a questionnaire, we need to know that kind of thing, it makes an enormous difference in the salary level.

>> We got to have boxes at the bottom, or basically ask around. That's the only way you're going to turn up this stuff to find out what's going on with the salaries.

>> I would move adoption of the recommendations set forth on pages two and three of the committee report items, one subdivisions A through J.

>> Second.

>> Judge Moss seconds.

>> Any further discussion, if not all in favor say aye.

>> Aye.

>> Any opposed?

>> Matters carries.

>> Go on to N.

>> The panel remains the same.

>> Item N.

>> Trial court trust fund allocations, statewide programs.

>> This is another chapter in our continuing trial court funding analysis. Same trial court budget working group created a different subcommittee and before I turn it over to Zlatko I want to commend the members that really went about their tasks, with a real statewide view of trying to do the right thing in difficult circumstances.

>> Thank you, Judge Rosenberg.

>> We embarked we're embarking and have completed some portions of a line by line review of all of the expenditures out of the trial court trust fund and the modernization fund. We

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did create an expenditure subcommittee that reviewed all of the lotions for the TCTF and I'm calling the IMF for lack of a better term. There were ten members, five judges and five CEOs who gathered and we provided a lot of information about what it was that these programs do, court impacts, historical expenditure levels, to really give them a sense of what it is that these dollars buy. So we had a meeting two and a half weeks ago, we brought those recommendations then to the trial court budget working group on the 22nd and we did defer some issues because we felt that we didn't have the time to make all of the necessary recommendations and in particular was the improvement in modernization fund, I don't know how many individual programs are funded out of that fund, but it is three pages of small font, line by line, some ranging from four, six million dollars and some to 10, $20,000, but they are all important. We couldn't quite complete that when we met on the 14th, we're deferring that. That's not an issue that that's coming were you today for your consideration. We thought we were able to do that when we last met, but we just felt we needed to give it more time. We're going to be gathering data and having another meeting in September to bring that allocation to you in October. The reason it is important is because you've heard this discussion of the 59 million and we as a branch are continuing to see what dollars we can add to that pot and that's what this process is, it is going line by line to seeing where there might be some savings, some creative ways to try and fund programs differently so that we can manage to offset the cuts to the greatest extent possible and we will be working to put that inventory together and engage in this dialogue with the department of finance. They need to see the data points that they need, and more if it is required from our perspective.

So in your package, we're basically asking you to approve allocation of 150.8 million dollars in trial court trust fund expenditures. The attachment A in your packet summarizes all of those, and I will go through them at a high level so you can see. This, again, was vetted, all of these that are recommended were reviewed and approved by the committees and the budget working group for expenditure at this time that we felt that we were in a position to make this recommendation of allocation.

With respect to the Phoenix financial and HR program, we are asking approval of a 1.4 million dollars, however there is a large component 6.7 million dollars that's related to the financial side in which we're going to look at in the context of funding possibly out of the improvement in modernization fund, which would thereby allow us to free up the dollars in the trust fund for trial court operations. So that's a matter of managing the program and seeing if there's room to spend it out of a different account. Simply put, we're not ready to make that recommendation. We want you to know we're not taking that issue to you at this point as part of our creative thinking and a lot of creative thoughts at these meetings.

Next is, an allocation of 26.8 million dollars from the trial court trust fund for a variety of programs. The larger parts are related to the civil Council program of 10 million dollars, and 11.8 million dollars for V2 and V3 costs, again attachment MA on page 23, in your materials gives you a listing of all of the items that are included in that 26.8 million dollars allocation. They were lesser amounts than the Council approved back in its March meeting. IS was looking at ways to reduce costs. We would try to spend as little as possible. There are some savings that will be added to the pot as part of this overall redirection.

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Next is an allocation of 123.8 million dollars for programs that fund and reimburse courts for a variety of court operations. The single largest component is 103.7 million dollars for court appointed dependency counsel. 16 million dollars for jury reimbursement. These are court costs that we thought appropriate to move forward to allocate.

IT costs. It has been limited to personal computers and printers, we know that the world of IT at the courts is more expansive in need than that. The court has been wanting to use those funds for servers and other IT needs. In some cases they haven't had a need for IT replacement in a particular year and they have asked to redirect those funds to court costs for court operational costs and what we're asking and recommending is that the Council allow courts to use those funds as they see fit, as well as offering their ability to use them for core costs.

Finally an issue related to the fund balance policy. This was brought up in the context of fund balances supposed to be reduced to 1%. The fact that we now have a statewide emergency fund and the idea that the fund balance policy manual talks about what you need to have in your fund balance for minimum operating needs. The committee discussed it and we had varying views on this particular issue. I can't remember the vote, but I think there were some dissenting opinions and ultimately it was recommended that we eliminate the requirements to maintain the minimum operating emergency fund balance this year and going forward.

So that's the summary of the recommendations of the working group. Do you have any questions?

>> Chair Cantil Sakauye: I don't see any hands raised. David.

>> If I could just make a comment. I do have a comment with respect to the 5th recommendation. If there's a motion if we separate the 5th one from the motion.

>> Judge O'Malley.

>> I was the chair of that committee several years ago and our task was a request from the trial court budget working group to get this particular allocation within the budget that was a lotted, and it was an allocation that was always over, and we always had to ask for funds from the trial court trust fund to be able to pay back to the courts because we had gone over and we worked for the last two years very hard with a lot of courts on looking at ways in which everybody kind of did their business differently, if there was a way that not to tell anybody how to do their business but if there was a way that was more efficient that other courts could learn from and it really was a collaborative process, everybody did agree on the end result how we were going to resolve this problem to get us to the base budget. That was the request of the trial court budget working group. I want to commend the courts and the committee that the members that I was able to work with for their hard work and, you know, creating basically new ones and going out and changing the way they do business to get themselves within this. People have worked very hard to be able to change the way that they do business, to become more efficient to get this within this line item budget, again, I would ask that they approve this. It was hard work on behalf of everyone involved.

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>> Chair Cantil Sakauye: Thank you.

>> Justice Hull.

>> Thank you, chief.

>> I just wanted to note along with Judge O'Malley's comments. I had a call from justice Tony Cline here in the first district, I don't know, a month or so ago, he apparently was on one of the original committees that considered the legislation relating to the appointment of Council in dependency cases, he has long waged, I won't say a battle, but taken the position that perhaps we could realize a great deal of savings in this program recognizing perhaps that requiring the appointment of counsel for all of the children in dependency cases perhaps didn't make a great deal of sense when you're appointing counsel for a six month old child. He made his point. We know what the statute says, it is required. Perhaps instead of requiring the appointment of counsel, that it would be the reverse, counsel would be appointed with the showing of good cause. We began to discuss that in RUPRO preliminarily, frankly without going into the details, as it percolated up, it does not appear that it would be politically feasible.

>> I had that same issue communicated to me by an appellate justice who I'm not at liberty to disclose his name. Frankly, I doubt that he would object. And when we do address the sacred cows in order to meet existing challenges, I do think that this is one that should be on the table. And I can tell you this is an appellate justice who have held similar positions in the past and we are philosophically divergent, so I would suggest very strongly that this be a matter that is taken into account. So you're not alone.

>> Chair Cantil Sakauye: I would say having been at the conference of Chief Justices, having every Chief Justice of each state and also the territories, there's divergent practices and opinions across the board, so the national center for state courts is conducting the chief the conference of Chief Justices survey on what the practice is throughout the nation versus appointment of counsel for the child versus appointment of a guardian add litem or some hybrid, the survey came to California, sit on that committee and I made some changes to the survey request and also sent it to CFCC to ask them if they had suggestions to make the survey more worthwhile and better to understand. That's when it came to my attention in other states there are hybrid appointments of court appointed counsel and guardian ad litems.

>> Trying to collect funds from those who were appointed counsel if they can't afford it. I'm also on that committee and we are working for ways to look into that. Of course, during these trying times and limited resources, that's going to be a challenge in just having the court use its resources again to collect funds and that will be one of the issues that we're looking at. How much do you expend to collect what little you may get? But anyway we are looking into that, chief, as far as seeing what monies if any, can be redeemed from this program as well.

>> Chair Cantil Sakauye: Thank you. Judge Kaufman.

>> I feel for Judge O'Malley on that committee. How do you do that?

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>> The issue in mind is the legislature has told us they want us to provide these services. At the same time they are cutting our budget. I don't think they are cognizant of the fact of what that means. We get no help in terms of those services. If you want us to do these services and it is politically appropriate and insensitive, that you have to fund it properly.

>> Chair Cantil Sakauye: Thank you.

>> Alan Carlson.

>> Playing my usual role of coming up with something different.

>> Do you say, look, we have a separate line item, let's pull this out of the trial court thing and make a separate line item for appointed counsel for children. You gave us 100 million last year and that's not enough. We want to be BCP for 123.

>> Certainly that is part of this transparency of providing more information. Doing an individual line item for this is one way to point it out. If it is short or over, it makes it, you know, available for discussion in that regard. So certainly and I think that's what they are looking for is to provide more information. We provide these charts like this to them and they say, oh, so these are all of the different things that this money funds, they think that it is just one big pot. There's a process at the Council that goes through and rationale and justification for all of these. Now is the time, I think, to shed more light and let people know, and as judge Kaufman has suggested, this is a line item, it is what it is, if we want to do something about it, we engage the administration in a conversation, however difficult it might be.

>> So before us, we have these five recommendations, there's been a request by David Yamasaki, but in terms of these recommendations before us, do I hear a motion?

>> Approval of one through four.

>> By So.

>> Judge O'Malley seconds.

>> Not hearing any further discussion, all in favor of items one through four as adopting items one through four say aye

>> Aye.

>> Any opposed? Matter carries.

>> David, you wanted to speak to number five?

>> Yes, thank you very much, chief.

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>> I have to first of all disclose that this particular item is before you and I was one of the people who voted in favor of replacing it before the Council for a vote. But I've had an opportunity to reflect on what this actually is going to mean for us and clearly the fiscal crisis that we have has prompted many of us, many courts, to draw on the reserve, this particular reserve, which is an emergency reserve to help us in times of trouble and clearly this is a time of trouble. But the fact is, the rule, itself, allows us to draw on this money when we need to. By rescinding this policy, I think we kind of shoot ourselves in the foot by making the argument that it is very important for us to maintain reserves. So I believe that it would be prudent for us to not act on rescinding this particular policy, and just preserving it and using it as one of critical arguments that we have to make to the department of finance and whomever to suggest that where he need to carry reserves for these emergency purposes.

>> Chair Cantil Sakauye: Curt, and then judge Earl.

>> The rationale for putting that on for the budget working group was with the best of intentions, if you will, at the time, because with the policy currently in place, the concern is that if the audit group does an audit of a particular court and with that policy still in effect, it lays the foundation for a finding, if you will, since the requirement is still there. Understanding what David is saying, appropriately, I believe, that's probably the best approach in terms of dealing with finance on it. Otherwise what we're saying is those balances in those reserves were operating emergencies and contingencies does not matter.

>> Judge Earl.

>> I also was on the subcommittee working group and was someone that supported the recommendation that the policy be rescinded and those of you who are also on it can correct me if I'm wrong, the position of those of you who supported it, courts are in a position that they cannot afford to set aside money to comply with this policy. Why would we at a time when we have significantly reduced resources put ourselves in a position to say we're still going to comply by saving a certain amount of money that we need for other expenses that we have. We were also mindful of the complementary government code section that allows for courts to be placed in receivership, I think it is, if they do not comply with this policy, and did not wish to put ourselves in this position. So I think ultimately, the bottom line of those that supported it was, why would we do this to ourselves, we cannot afford to do it at this time.

>> I move we approve recommendation five.

>> Do I hear a second?

>> Second.

>> Seconded by Alan Carlson.

>> The motion is to approve the rescinding of it?

>> Right.

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>> As worded. Eliminate the requirement.

>> Let me just say that this particular item brought about a lot of discussion and it is kind of a Hobson's choice, no good choice here, there are problems either way, a substantial majority of the working group favored this proposal, but there was there were a number of the working group members who would have gone the other way.

>> Can I ask a question? Was there no middle ground, no modification, no aspirational, no factors, I know this rule, and I can say without attributing this to any particular court that it has been honored in the breach. So I saw it here and wondered if

>> It's true.

>> I can tell you we did not identify middle ground during our discussion. It was one way or the other.

>> Okay.

>> Just to follow up on maybe a middle ground, would it be possible that the policy stands but it is modified to require that at such time you have to dip below that emergency it seems to me that would be very available information

>> And it currently does provide that if you cannot meet that minimum

>> You go into receivership.

>> The second part was then you had to offer a plan on how to get back to a level where you maintain that minimum.

>> Right.

>> It still maintains the fact that as a branch, we should have trial courts have reserves that have a minimum operating level, but the onus and the sort of negative implications of not meeting it should be softened.

>> The argument that the proponents made and I abstained on this one. Is that with this requirement in place, courts are placed in an impossible position if they really needed to spend the money, for example, to save some employees. So but as Zlatko says, you can breach it, okay? It is not it is not a complete hard and fast requirement, it is possible to breach this isn't that correct?

>> Uh huh. But I think the implications is to suggest that it should be revised. It is the policy, but if you cannot maintain it, you nearly note as to that condition.

>> Is there any problem with just suspending the policy during the time of fiscal crisis.

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>> We just discussed, I think, having it for the interim period I'm trying to remember, do we have that as one of the options?

>> I think it was hold it until the fund balances are gone, do it now, or wait until

>> I think what judge So is suggesting may be in fact the middle ground. Maybe it is semantics, suspend it for one year.

>> Yeah.

>> Just a point of clarification, this is a Council policy. It is something we have imposed on ourselves.

>> Right.

>> And as far as a disciplinary matter, if a court were to violate the Council policy, then who would decide whether or not that court would go into receivership? The Council?

>> I believe so.

>> There's a government code section that allows the Council to do that.

>> And/or what else?

>> You can give them some direction and not put them under

>> Aid them, assist them, monitor them, look to see plan to see if they could get around it, so it seems to me that we have all sorts of options short of receivership if we vote yes on number five? Correct?

>> Right.

>> But just to put it in perspective

>> No

>> You're voting no.

>> Oh, we're going to rescind it.

>> Not here.

>> Only if you don't rescind it.

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>> My motion was to accept the recommendation and to rescind it because the courts are going to have so little money now, there's a 2% statewide, more reserve and that if we make them justify everything, we're just adding more burden and the money might be needed by people at this point.

>> Let me clarify, so if we vote to rescind, we're saying we're not going to follow this policy?

>> Correct.

>> Right. And the worry is that if we violate our own policy, then a court might inevitably have to go into receivership, honestly there's a lot other there's a lot of other steps short of having any court go into receivership if you're in violation of this policy, but if we rescind it, it wouldn't even be an option.

>> Judge Kaufman, did you have your hand up?

>> I think there's got to be a middle ground. The other thing I'm concerned about, we still don't know where we really are. We're going to form a committee, and meet with the department of finance, I don't think we have really finalized where we are. If we were to suspend it for six months or a period of time to get a better idea. Then we can readjust. I just don't want to make a rule that causes a problem down the line. Also if we do rescind it or whatever we do, when the BSA comes and does an audit what does that do if we are violating our own policy. I think we have to be very careful. I'm not sure who is right or wrong. I have mixed feelings on this one. I would like more information. Maybe there is a middle ground as the chief has indicated.

>> Justice Hull.

>> Thank you, chief. I hadn't thought of judge Kaufman's concern about audits. It does seem to me, what Judge Rosenberg mentioned a few minutes ago. Aren't we talking a matter of semantics, we can suspend it and unsuspend. We can maintain and rescind it.

>> You can boil it and bake it.

>> Right.

>> So I'm in favor of the motion with the understanding that if we rescind it now, when circumstances are different in the future we can reimpose it.

>> One more element that everyone should be aware of, the people who are opposed to changing this thought it by changing it we would undercut our own position that we do need to maintain a minimum funding level, minimum reserves, if you will.

>> I guess I'm starting to turn to the position of the semantics perhaps are important and maybe voting to suspend is perhaps a better approach.

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>> Judge Herman.

>> I think also instead of the original one year burn off period that the legislature was looking at and finance was looking at we're now down to kind of like two year down ramp, so, you know, in that context, suspension of it makes sense, because we can always go back the other way, number one, and argue the policy and reimpose it for the final year.

>> Justice Hull.

>> Thank you, chief. I don't oppose suspending it, rescinding it, whatever we do. If we rescind it, does not add the other argument that we have been put in such a difficult position that the trial courts cannot possibly maintain any what's the phrase life net support, or whatever it might be, because we don't have the money to do even that anymore?

>> There are some courts out there where the legislative restrictions, waiting room is one example, are so onerous that those reserves they cannot stand to exceed the 1%.

>> There will be courts that will

>> The motion is to rescind, to accept the recommendation as stated in page 2 of this item.

>> Unless there's a friendly amendment to suspend it for two years

>> I would like a vote on mine and then I'll listen to his.

>> I'm going to do the point of order that I've learned here.

[Laughter]

>> Let me clarify are you making a substitute motion?

>> I think Judge Yew made a substitute motion.

>> I was going to, my substitute motion would be that the Council suspend the rule for two years and the second is Judge O'Malley, so that's gets voted on first, and so all in favor and Jody is ready with the roll call, all in favor of suspend the requirement say as you say aye please raise your hand.

>> Aye.

>> Chair Cantil Sakauye: So that passes.

>> You need to get the no votes.

>> 14. And how many no's?

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>> Chief, you also have another vote on the phone, so

>> It is an aye.

>> Are you in favor of the suspension, Mark?

>> Yes.

>> Okay.

>> So that's 15.

>> Any opposition to the suspension?

>> No no's.

>> Okay. So we don't record any no's on the substitute motion and that moots the original motion, I believe

>> Correct.

>> It would be two fiscal years.

>> Realistically it would be two fiscal years.

>> Thank you. You know we had a very interesting discussion on item five as well, so it was nice to see this good discussion here at the Council.

>> I appreciate everybody's interest and involvement I would offer that if you ever have any questions, I'm trying to make it manageable, understandable, I would offer if anybody needs to ask me a question, please pick up the phone, e mail me, we'll do it in confidence so no one knows, I really want you to feel like this isn't just something I talk and you're okay, I want you to really engage me. I want to hear from you and make it

>> When you said which means you take it from another account, I understood that.

[Laughter]

>> So Judge Rosenberg, and Zlatko and Stephen and all members of the trial court budget working group, you've had a novel experience, and you all rose to the occasion and were able to give the Judicial Council guidance in your expertise and all of us are grateful for your ability to bring this to us in this form. Thank you.

>> Thank you.

>> Judge Hardcastle.

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>> I promised a news update and AB 340 passed the assembly 48 to 8 and it is on its way to the senate.

>> Thank you.

>> Thank you, everybody.

>> So that concludes our agenda, but I do want to conclude by saying we, unfortunately, take this time in our meetings to remember our judicial colleagues recently deceased, and they are Honorable Edwin Beach, Court of Appeals, Second Appellate District, the Honorable William Biddick, Superior Court of San Joaquin County, the Honorable William Jensen, Superior Court of Solano County, the Honorable William Lee, Superior Court of Orange County, the Honorable Alfred Lord, Superior Court of San Diego County and the Honorable Keith G. Wisot, Superior Court of Los Angeles County. All were retired from the bench and we honor them for their service to the courts and to the public and the cause of justice.

Thank you. This concludes our meeting. Our next scheduled business meeting is October 25th and we bid our departing members of the Judicial Council a fond farewell.

[The meeting concluded.]

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