

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 videocast live via the California Courts website. What follows is a formatted and unedited transcript of the last meeting. 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 www.courts.ca.gov.

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>> Good morning and welcome to the first in-person public business meeting of the Judicial Council since January 2020. Our meeting is now in session. As you know, based on the agenda we plan to adjourn approximately at noon. Welcome back, everyone. It is great to see all of you or almost all of you in person. I say that because Senator Umberg and Judge Bottke are joining us videoconference so this is officially a hybrid meeting choice. I also want to thank all of you and our amazing staff for making the remote these past two years work, and for helping the Council get our business done during the pandemic. Before we begin with our regular agenda, I want to take a moment to comment on what has happened since our last in-person meeting over two years ago and, reality check, it will take more than just a moment. On March 4, 2020, Governor Newsom proclaimed a state of emergency in California as a result of the threat of COVID-19. The following week, I issued a statement saying that the California Supreme Court, the six Courts of Appeal, and the 58 trial courts and the Judicial Council of California were working closely with local, county, state, and federal health departments to respond to COVID-19 while maintaining access to justice and protecting the communities we serve. Although the extent of the pandemic was unknown at that time, California courts continued to do what we do best under ever-changing circumstances. Working with local justice system partners and stakeholders to balance public safety and health requirements while protecting liberty and due process rights. In mid-March 2020, I issued two advisories to offer guidance to California trial courts seeking emergency orders to adjust court operations and on a series of measures to adapt our processes on civil and criminal cases and statewide orders to enable courts to transition to the pandemic working reality and still provide access to justice. Every level of California's court system, including council, pivoted to remote proceedings and hybrid services in person and remotely, protecting everyone involved and keeping courts open and operating. That was mission-critical. When Governor Newsom's March 2020 executive order N-38-20 on judicial emergency authority was issued, I said, we will assume this responsibility with the utmost care and judiciousness. The council, all of you, the very next day approved temporary emergency measures at a special remote meeting to continue essential court services well regarding the health and safety of all our court users in the local communities. At that meeting I said that no need and no right will be overlooked. Martin commented that everything is number one on our list, but we do have to deal with them in some order. We issued a circulating order, as you recall, on appellate rules. Within 10 days of our first remote reading we held the second emergency remote meeting. In the absence of a playbook on how to manage this unprecedented global health crisis, we the Judicial Council approved a slate of 11 temporary measures,

temporary court orders and rules, to protect local communities, court users, and the courts themselves. These temporary emergency rules included, as you recall, actions to lower jail populations and to suspend evictions and foreclosures. All actions were intended to stem the spread of the virus and to flatten the curve of infections. We took this action as part of our duty as a state branch of government as we fought COVID. These original 11 rules now temporary, grew to 13 based on need and input from the justice stakeholders. We were able to end two of those temporary rules by September 2020 when the administration and the Legislature developed a more comprehensive and longer-term solution to protect landlords, tenants, and homeowners. Since then we have had surges and variants, health orders, mandates, vaccines and boosters. Unfortunately we have lost many family members and friends, neighbors, and colleagues to the global pandemic. We grieve for those we have lost and we continue to support those that still suffer the impact of the virus. Now in today's world, as the Governor has begun to remove some of the executive orders, and the Legislature has put in place new statutes and legislation, we also must take on our responsibility for our branch and California's gradual reopening. As Chief Justice I have already acted to rescind my temporary statewide emergency orders that governed extensions of time for preliminary hearings and civil trials, the use of technology, and fast tracking local court rules. These changes will be effective April 30, 2022. As chair of the council, and along with all of you today, in person or joining by videoconference, later today on our agenda we will consider recommendations from the internal chairs to end the remaining temporary emergency rules and potential next steps. The recovery and refocusing work is not over just yet. So we will also have an update on the work of our Ad Hoc Workgroup on Post-Pandemic Initiatives on successful and promising court practices and an upcoming interim report on improving the juror experience. Once again to all of you and your courts, thank you. You have all of our deepest gratitude and admiration for your wisdom during this time, your patience, and your adaptability with our virtual meetings and processes. Thank you for your continuing leadership and contribution to the judicial branch's role and our response to this pandemic. That concludes my opening remarks, and at this time in our in-person meeting we have public comment. So, as you know, we have also always accepted written comment, that at this time I prefer that I turn this over in the old tradition to Justice Marsha Slough to conduct public comment.

>> I have been informed we have no in-person public comment today. We did receive a written comment. As you have heard me say for two years now, that has been posted and the members of council have had an opportunity to read this.

>> Thank you. As we reopen I expect soon we will see the audience once again filled with people that are concerned about the judiciary. For our new members we not only have a public comment period on general issues but we also have folks who come to speak on agenda items and we take the public comment right before the agenda item, before the presenters begin it. I anticipate we will once again start that business. Next on our agenda is the approval of minutes from our January 21-22 Judicial Council meeting. Having earlier reviewed the minutes, I would entertain a motion to move and a second.

>> So moved, Chief.

>> Thank you Justice Corrigan. Seconded by Judge Rubin. All in favor of approving the minutes please say aye.

>> Aye.

>> Any noes? Any abstentions? Minutes are approved. Next, as you know is my report to council summarizing my outreach and engagements on behalf of the branch since January. As we entered this two-year-plus of COVID-19 my engagements, like yours, initially became a mix of in person and then became virtual appearances before becoming entirely virtual. As we exit the pandemic, this same time frame, my engagements like yours have once again reversed course to eventually becoming in person events. In spite of the very many challenges we read about that are being experienced by the school systems and our students, teachers, administrators, and parents, I am glad to have been able to continue to honor one of my longest running regular engagements on my annual calendar, my visit to Sutter Middle School. Since I was a trial court judge back in the 1990s, Ms. Jodi Cooperman, the wife of Justice Lori Orellana, Third District Court of Appeal, a middle school teacher, has hosted me at her school to give a talk on our state's three branches of government with an emphasis on the judiciary within our constitutional democracy. Last month, approximately 200 students and teachers participating in the talk and questions and answers remotely. I also visited teachers and students at my children's alma mater at Saint Roberts Catholic School in Sacramento to participate in another round of questions and answers discussing the judiciary, my role, and a career path. It is important to note that we as judicial officers honor standard 10.5, the role of the judiciary in the community now more than ever as our democratic system of government faces the threats of misinformation, disinformation, and apathy. Each generation must reconnect with our democracy for themselves. It was a privilege for me to participate once again in the YMCA Youth and Government Program which seeks to develop the next generation of students, civically engaged Californians, informing the high school students about the importance of civics education, always with an emphasis on the judiciary of the structure and function of government, and civic awareness facing their communities. There were over 1,000 online participants and I was introduced by the youth Chief Justice David Kim, from the Crescenta Valley. These 1,000 students elect their governor, speaker, their assembly, president pro tem, all the constitutional officers. The questions from the youth leaders were thoughtful. They ranged from occasions where we as judges might have dissonance between our moral compass and the law and to whether anything about our upbringing or personal identity has been an obstacle or a challenge during our careers. Personal identity and background seems to be less of a possible obstacle to a career in public service on the bench in California than it might have been in the past, based on information from the recent judicial officer demographic data. For the 16th straight year, California's judicial benches have grown more diverse. The numbers reflect 38.6% of judicial officers are women, 35% identify as nonwhite, and 4.4% identify as lesbian, gay, bisexual, or transgender. While all of this change is positive, we can still do more. We can end the list of firsts when the courts are more reflective and representative of the

communities they serve at every level of court operation. The Judicial Council's, as you know, number one goal is access, fairness, and diversity. As early as 1990, the Judicial Council unanimously adopted a comprehensive set of recommendations addressing gender fairness in California courts. It was in the year 2022, so 20 years ago in 2020 the Judicial Council added diversity to our primary statewide strategic goal. In 2006, the first summit on judicial diversity and a follow-up meeting of judicial branch partners explored ways to support the Governor's efforts to increase the diversity of our judiciary. As you know we have a diversity summit every five years to continue to focus on the need and appropriate tools and initiatives to help move us forward to that goal. Out of this, this years of work, came the Judicial Council's Pathways to Achieving Judicial Diversity Toolkit created in collaboration with the Judicial Council Advisory Committee on Access and Fairness, and the State Bar of California and its Council on Access and Fairness which has served as a key resource for judicial and legal mentorship programs. In 2019 we had a presentation from Judge Kevin Brazile, former presiding judge of Los Angeles and current Judicial Council member and cochair of our Providing Access and Fairness Advisory Committee on the Judicial Diversity Toolkit 2.0, the new Pathways to Judicial Diversity website. Thank you, Kevin. Thankfully also we have seen explosive growth in the number of superior courts involved in the trial court mentorship programs, with 45 California courts joining our efforts to accelerate the diversity of the bench and the First District Court of Appeal launched the first program at the appellate court level to serve as a blueprint for other appellate courts. Therefore I was pleased to be able to support two events that further our shared goal of a more diverse judiciary. For the 2022 Judicial Nominees Evaluation Commission of the State Bar, Governor Newsom's judicial appointments secretary Luis Cespedes welcomed the new members and I provided brief remarks and administered the oath of office to the 14 incoming commissioners and the incoming chair, Mr. Adam Hoffman, and the vice chair, Mr. Justin Palmer. Also the statewide California Judicial Mentor Program event called Demystifying the Judicial Appointment Process, I had the pleasure of providing virtual welcoming remarks. The program is a collaboration between the state's executive and judicial branches. Attendees included representatives from eight superior courts, Alameda, Contra Costa, Monterey, San Benito, San Francisco, San Mateo, Santa Cruz, and Santa Clara County. I provided remarks at the Judicial Council's virtual two-day Supervising Judges Institute, an orientation program designed to educate and support judges commencing leadership roles in the superior courts. Current branch leadership also shared their reflections on leadership, specific supervisory challenges, working with court management, and the importance of succession planning for small, medium, and large courts. I also provided remarks for the first joint annual meeting in 2022 of the Judicial Council Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee. Both of these council advisory committees have seen significant changes in leadership in recent years with 22 new presiding judges in 2022 and 13 new court executive officers over the past three years. These committees emphasize the importance of knowledge transfer, coaching, and succession planning. I discussed among other things the Governor's positive January budget proposal and how negotiations were evolving with the administration and Legislature as we exchanged information and data respond to their questions and concerns and moved toward the May Revision. During Black History Month and at the invitation of the California Association of Black Lawyers the Wiley Manuel Bar

Association and UC Hastings Black Alumni affinity group, I had the pleasure of providing a selfie video honoring the late Supreme Court Justice Wiley W. Manuel as the law school considered a motion to name the new scholarly publication center after him. Justice Manuel graduated the top of his class, served as editor-in-chief of the law journal, served in the Attorney General's office and on the Alameda Superior Court before becoming the first African-American justice on the California Supreme Court in 1977. He was taken from us much too soon. Finally just this week I was pleased to be invited to attend in person Governor Newsom's 2022 State of the State address in Sacramento. The Governor celebrated the diversity of backgrounds and experience of California's state-level constitutional officers, expressed concern about the undermining of and threats to our democratic institutions, and recognized our commitment to fair and equal access to justice for all Californians. This concludes my report, and I turn it over to our administrative director Martin Hoshino.

>> Thank you, Chief. Good morning, members. I have to note that it seems like the pandemic and all of its constraints seemed to slow down a lot of people's activities. That was clearly not the case for you. Clearly you are actually doing more rather than less in the trying times that we are all laboring under. Members, it is good to be with you in person. Certainly also exposure to the members of the public to be in this setting. I'm very happy to be out of the enclosed plexiglass booth that we were in and certainly to be something that resembles more close to the real world. I have for you the written report that is in your materials. As usual, it highlights the activities that occurred since your last meeting which was January 2022. It has summaries of all of the meetings, summaries and actions of the advisory bodies that occurred in the intervening weeks and also summarizes the approximately almost 40 education programs and resources that were made in that same window of time. However, I would like to draw out of the report some things and highlight them for your attention. I will try not to be repetitive of the Chief's comments on the judicial demographics data but in the report it notes that on March 1 we did publish the annual legislatively mandated report on judicial demographics. The report shows the continued process in increasing diversity on California's bench, which is also predicated on annual voluntary information that judges and judicial officers provide for us. That started as the Chief mentioned in 2006. Two points to note with more precision in the numbers. The Chief already mentioned that 38.6 of the justices and judges identify as female. It is a slight increase over the prior year, but one of the takeaways here as it actually represents a total increase of more than 11% since we started tracking in 2006. The bench also continues to grow more racially and ethnically diverse with the percentage of Asian, Black, and Hispanic officers having nearly doubled to about 35% since 2006. Our report also coincides with the release of the Governor's judicial applicant and appointee data for his administration. From their report the Governor's office reports 169 appointments in the last three years, 49% of those new judges were women and 58% identified as Asian, Black, Hispanic, or Pacific Islander. Obviously this is all positive news in the recognition of the need to continue in this area. The real note that I want to strike here is it really demonstrates the results of about 15-plus years of commitment and work with folks previously. It shows that if you can and you make a commitment and a concerted effort it can and does make a difference. This is a point that we express nationally as many other states tried to engage the same initiative in terms of pathways. Speaking of

pathways which the Chief mentioned, we are basically moving from what she was describing as the 2.0 version that Judge Brazil has been leading and starting the groundwork to get toward 3.0 and yet another update a lot sooner than we did for 1.0 to 2.0. So on our Courthouse News update which is the online publication, we have invited every court in the system to give us more information about what their local court judicial initiatives are specifically targeting areas of K-12 schools, community colleges, undergraduate colleges, law schools, and practicing attorneys. Some of the outreach activities that we try to collect and capture include trial observations, judicial internships, mentorships, activities, and although youth and peer courts. It is intended to be a way where we facilitate the peer exchange of the ideas and resources that can be basically tailored alongside our own state driven outreach program. That work is underway and should continue. More about that as we move forward. Switching from that virtual work we are doing and also to the brick and mortar pathways. In February, it has been a while but we had a groundbreaking ceremony that was held in Stanislaus County for the new Modesto courthouse. Its estimated completion date is a bit out there but not too far out in terms of 2024. It will be a new 27 courtroom courthouse. It will replace three buildings. One in Ceres, one in Modesto, and one in Turlock. It will bring all of their operations and consolidate them under one roof. Council member Rebecca Fleming knows this topic very well having been from Stanislaus. I met her when I was there and saw the conditions that they were operating under and I think it is going to be a welcome addition. Current effort is being led by Presiding Judge Robert Westbrook and Court Executive Officer Hugh Swift. That is serving approximately a half a million folks. Good news to report there. In terms of some of the education items in the report, the section that highlights some of the foundation programs that you are familiar with that still continue. It really has to do with the primary assignment orientation for the bench officers for a special court assignment as well as a series of experienced assignment courts in specialized areas of law. In the past month we were also able to convene Supervising Judges Institute as well as the Presiding Judges and Court Executive Officer Institute. These, of course, are very timely. Just for reference, the 58 trial courts, 22 new presiding judges began their tenure in 2022. Six courts have appointed new court executive officers in last 12 months. Regrettably we were not able to do that function in person. We were making decisions about what we could do in person and what we can do remotely, but in the window of time and we had to make the decision things were a little bit still unstable and we have been proceeding again with a collective caution on things. Good news is hopefully these trends will hold up and we will be able to get back to the face-to-face and have the value associated with those kinds of trainings and experiences which are always superior in terms of all those types of functions. I wanted to give a quick thank you for the faculty members that make themselves available. They volunteer their time to come and do this and share their experiences and resources with each other. Finally, an update on the MyCitations ongoing expansion. This is the online tool for adjudicating infraction violations. Earlier this month we were pleased to report that the Superior Court of Santa Cruz begin the eighth court to deploy the system. We have courts expected to go live in the next two weeks. Also included in your materials is the legislative report and the ability to pay determinations is included in the information item actually as part of today's agenda. Some of the highlights to note for you, the report is capturing information on the applications used in seven pilot courts over 24 months where we have received approximately

25,000 requests to reduce fines and fees that were submitted online. Again, the program in its first generation here is targeting low income residents of the state. Some numbers for reference. The total amount that was initially owed by litigants who accessed and requested the reductions was \$17 million total. That averages about \$700 per individual. After review by the courts, the amount owed was reduced by more than \$9 million to an average of about \$300 per request. The last two important things to note about the program is in addition to the preliminary analysis of the requests that were adjudicated in the pilot of 24 months it shows that when a reduction request was approved, 42% of the court ordered debt was actually collected. By contrast, on the flipside, when they were denied, only 22% was collected. This is no doubt a positive indicator that this program and the exercise of more judicial discretion to right size fines and fees in California is making a difference in the lives of people who are struggling financially. Which is exactly what the target goal of the program is. Hopefully we will be able to be collecting more data, more information, keep going with the expansion and see how that holds up and be able to report out the results, and if there needs to be adjustments or changes or augmentations or expansions to make sure the council members are aware of this, of course, a working partnership with the administration as well as the Legislature in trying to restore proportionality and fairness to a system that developed literally over three decades. This is one of the good things that California is doing, is working on, trying to take a measured, methodical and thoughtful and non-harmful way to try to correct what had occurred over the course of time. Members, that concludes my report for this morning.

>> Thank you, Martin. Next we have a presentation from one of our internal chairs. That is, we also have five chair committee reports posted and written on our website but I invite Justice Carin Fujisaki who is chair of the Rules Committee.

>> Good morning, everybody. By way of background the committee maintains the rulemaking process and assists the council in making informed decisions about adopting, deleting or changing the rules of court and standards of administration and jury instructions. This is normally a quiet period for the Rules Committee. The council's March meeting typically includes consideration of new and revised criminal jury instructions and adjustments to fee waiver forms to reflect changing poverty guidelines both of which are on today's agenda. This year the committee has been a bit busier than normal. There are nine reports for court rules, council forms, and jury instructions on the agenda for this meeting, each of which has been reviewed and recommended by the Rules Committee. As set forth in the written report I have submitted with the meeting materials, several of these proposals represent significant expedited work by the advisory committees and others to address recent changes in legislation, including changes to felony sentencing and enhancement statutes, threshold dollar adjustments for small estates without full probate administration, and statutory amendments for expedited review of challenges to certain expedited CEQA projects such as the proposed Oakland Athletics waterfront ballpark. The consent agenda today contains seven of these recommendations while two of the recommended rule proposals, one regarding the creation of a new Data Analytics Advisory Committee and one recommending the sunset of all remaining temporary emergency rules of court will be presented on today's discussion agenda. You will hear more about them

later. Whether the items are on the consent calendar or up for discussion, all represent substantial work by the recommending advisory bodies and the Rules Committee thanks all of them for their time and efforts in improving our administration of justice. Finally, as a preview of what the council can expect in the coming months, the advisory committees remain hard at work with several rules and forms proposals currently out for comment. The Rules Committee will be reviewing these proposals in a few weeks and we expect they will come to the council at our May meeting. In addition, the Rules Committee will be meeting in the near future to consider posting invitations to comment for the proposed adoption or revision of over 100 forms and rules. The Rules Committee will return with final recommendations regarding those proposals at the October council meeting. Thank you very much. That concludes my report.

>> Thank you Justice Fujisaki. As Justice Fujisaki indicated on our consent agenda we have 10 items. I would say two things also. The first is there is a lot of work that goes on behind scenes on the consent agenda items and I know that you like me having read the consent agenda items, it seems that these are even more meaty and robust than prior consent agenda items which have always been substantial and significant. As Justice Fujisaki indicated, the council attempts to stay current with all the law that is passed in the Legislature which is reflected in the consent agenda items. I will soon be calling for a move and a second but I am also understanding that Senator Umberg and Assembly Member Bloom may wish to be heard so at this point as you know even though there is a motion and a second it does not table conversation. At this point, I entertain a motion to approve the consent agenda and then know that there will be discussion.

>> Boulware Eurie moves.

>> I will second.

>> Thank you.

>> Chief Justice.

>> Good morning Senator.

>> Hi. Yes, I wish to abstain on any of the consent items that refer or reflect legislative activity.

>> Thank you. I note that it is agenda item 22-001 on the agenda item that has to do with sponsoring legislation and your abstention is noted. Assembly Member Bloom.

>> Good morning. I will make the same request.

>> Thank you. Calling now for a vote for passage of the 10 agenda consent items with the two abstentions. All in favor please say aye.

>> Aye.

>> Any noes? Two abstentions noted. We have six agenda items teed up for you. The first item is 22-093, judicial branch administration, sunset emergency rules in response to the COVID-19 pandemic. We welcome the presenters, Justice Marsha Slough, chair of the Chief Justice's Ad Hoc Workgroup on Post-Pandemic Initiatives and Judge Marla Anderson, chair, Judicial Council Legislation Committee. Thank you and welcome.

>> Good morning, Chief. In an effort to be able to breathe while we present, I have elected and with Judge Anderson's suggestion to take a laboring oar for today so I can sit here socially distanced from everyone, so thank you Judge Anderson, for that concession and idea. I am here this morning as the chair of the Executive and Planning Committee. We, as the internal chairs, have a proposal to, as Chief mentioned, to sunset and make a slight amendment to a couple of our emergency rules that continue to remain in place. You will all recall back in April 2020 early in the pandemic, the five internal chairs recommended that the council adopt the various emergency rules. These rules covered a variety of topics to address the impact of COVID-19 on California residents and on court operations. As Chief mentioned early, the rules were always intended to be temporary. They were also intended to be just one form of effort to address the problems that we were facing. The efforts took on many diverse forms and came from various quarters. For example, the Chief Justice issued four statewide emergency orders. In addition to that, she issued over 700 individual emergency orders for courts when they requested them. She also made available the Temporary Assigned Judges Program. In addition to her efforts, the Judicial Council supported the courts in various ways through use of technology as well as facilities assistance. In addition to that, advisory memorandums were issued on numerous topics to make suggestions on how courts could continue to try to operate during the is really trying times. In addition, a resource guide was developed by Judicial Council services and submitted to the trial courts for their assistance. Finally and really importantly we continue to advocate with our Legislature for additional resources as well as law changes. As always happens, the trial courts at home on the ground took their own local efforts, developed their own local emergency programs. They innovated and they tackled their local practices in a way that allowed them to provide the best services to their public as they could during those times. Collectively all of these efforts I believe truly helped the courts continuing to carry out our constitutional mission while at the same time protecting the health and safety of court users and of our court employees and of judicial officers. As circumstances changed in 2020, the legislature enacted certain statutory solutions to address the impact of the pandemic. The courts continued to adapt to the new conditions. In response to these developments, Judicial Council also made changes along the way. We made changes to the emergency rules which included repealing and sunsetting many of them which were no longer required. More recently as Chief noted earlier, on February 17, Governor Newsom announced a new plan for the state as we transition from the pandemic stage and moved toward the endemic phase. The next week on February 25, Governor Newsom signed Executive Order N-04-22. That executive order rescinds many of his orders that he had initially issued. Some of those executive orders expired immediately on the day that he made the announcement. Others are set to expire at the end of the month. Still others will expire as of June 30 of this year. Importantly for our work amongst the executive orders that will expire on June 30, 2022, is Executive Order N-38-20. That

executive order temporarily suspended any statute to the extent that the Chief Justice issued orders or council adopted rules of court that were necessary to respond to COVID-19 but would otherwise be inconsistent with statutes. This is the executive order that served as the groundwork, as the foundation for council's adoption of the 13 temporary emergency rules. In alignment with the Governor's announcement, in alignment with the Chief's own action to rescind the statewide emergency orders, the Chief has asked the five internal chairs to propose an action on the eight remaining temporary rules and that is the mission before us today. In response, the five chairs met. Those include Justice Carin Fujisaki, Judge Marla Anderson, Judge Kyle Brodie, and Judge David Rubin. We have prepared the proposal that is before you today. The eight rules that are remaining basically fall into three different categories. The first one deals with criminal matters. That is emergency rules 3 and 5. Emergency rule 3 relates to remote technology and criminal proceedings. Five is criminal appearance waivers. You will recall that emergency rule 3 originally encompassed both civil and criminal proceedings. However, you will also recall that as of January we amended that rule because the Legislature took action to provide statutory authority for the use of remote technology in civil proceedings. We amended it so that it now only applies to criminal proceedings. We do recognize that the use of remote technology became much more widely used during the pandemic and it actually provided a way for people to access the courts like they have never had before. It served to be a very important response and we appreciate the fact that remote technology made the courts assessable to users, as I said in a way they have never had it. We recognize that and we recognize the importance of continued remote access in all case types. We want to continue to work toward additional measures that can be taken to assure that there are remote proceedings in all case types. The only way we can do that is if we do it together. I don't mean us as a council or us as the judicial branch. I mean us as the state of California. I mean us with our partners with the legislators, with the unions, with our employees. We have to work on this together. As the internal chairs, we commit to you council, Chief, legislative members, our effort to continue to work in a way to bring remote access in the appropriate setting, in the appropriate way, to life across the board for our trial courts. The second group of emergency rules that will be addressed today relate to family, juvenile law cases as well as protective order proceedings. Those are rules 6, 7, 8 and 13. Emergency rules 6 and 7 prioritize hearings and orders that needed to be made in juvenile dependency as well as juvenile justice or delinquency cases during a time when the courts were at a reduced operation level due to the pandemic. They also provided other provisions. Emergency rule 8 extended the time on protective orders, required the availability of ex parte procedures, and provided other relief to address protective order proceedings at a time when the trial courts were again reduced in their ability to handle those actions due to the pandemic. Emergency rule 13 allowed the court to make an order modifying support effective on the date the request was actually served as opposed to the date that it was filed. Filing at that time was impossible. Finally in the third group are the emergency rules 9 and 10 which impact civil proceedings. Emergency rule 9 tolled the statutes of limitation in repose for specific periods of time during 2020. Emergency rule 10 added six months to the time in which to bring a civil case to trial. This is really important. This next piece is really important. That applies only to those civil cases filed on or before April 6, 2020. By their nature, both of these rules could have an impact on cases well past June 30 of this year.

Therefore, in addition to recommending sunseting those two rules, we are also recommending that they be amended to assure that the sunset does not impact those litigants who relied on them during that time frame. Once the two rules conferred a benefit to litigants, that benefit cannot be revoked by sunseting or repealing the rule. We therefore recommend that both rules be amended to specifically state that the sunset is not intended to nullify their effect and to add the advisory committee comment that gives an example of the benefit of how the rules survive. Of course, that depends on the facts of any particular individual case. I can't really go into all of the detail of what the rules provide, but if anybody has questions or concerns or thoughts, I really encourage you to turn to the report because it does take a much more detailed approach. Not just rule 9 and 10 but to all of them. If you haven't, I know all the members have read it but if anybody needs a reference, please go back to those reports. I think it will assist. Finally, in conclusion, we know that the courts have used the authority that has been provided under these rules in many different ways. Some relied on them heavily. Others did not need them as much for various reasons because of local situations, and we know that coming out of them will also impact the trial courts in varying and different ways. We believe it is time to move past these rules. We believe it is time to align with the Governor. We know it is always time to align with our Chief Justice and therefore it is our recommended that they be amended as referenced in sunseting. I will say that all of these events, the Governor's announcement, the Chief Justice's actions on her emergency rules, the pending Judicial Council action here in a moment, I think they really mark a hopeful time for all of us. I think they mark a hopeful time for our state, for our government, and equally important for our families and loved ones. I think we are getting back to some semblance to life pre-COVID-19 pandemic. We have, as internal chairs, commented in our many, many remote discussions, marveled at the resiliency of the various trial courts have addressed the emergent situation that they have faced. We are grateful to them for their efforts, for their communications with us, for their communications with council. If there is any way that we can continue to support the trial courts in any way, please continue to reach out to us. Chief, we are open to any questions, comment, and happy to entertain a motion when you are ready.

>> Thank you, Justice Slough.

>> I note that there was a limited period for comment from the public before the proposed rule changes went to committee. Have we heard anything particularly from bar associations or practitioners about these proposed changes?

>> Thank you,, Judge Hopp, for the question. Just to put it into a little bit of a context, it was a limited time but going into it, it was no time. We had no time to ask for public comment. We had to move. Similarly, it is time to move out. I do believe there have been comments made directly, officially through the public comment session as well as folks reaching out to us both internally within the branch and elsewhere. But I think because we have been able to speak early, I think that everyone is not digging the change, because we don't always dig change, but I think everybody knows, everybody has always known these are temporary. Everybody knows we are in a different spot and everybody knows that it is time to get back and move back to

some sense of normalcy. Yes there've have been comments. More questions than comments. I hope that helps.

>> It does, thanks. Not trying to be critical in any way, I know time is short. I just wanted to be sure that we had a chance of it if some practitioners had suggestions to make rules better or repeal of the rules better that we could get those done.

>> You are welcome. I will also say that as we did when we went into them, we did as we are coming out of them we reached out to the justice partners to get input as well as we move forward. Just one, giving them notice, but also to ask for their perspectives as well. Thank you.

>> Martin, you have a comment.

>> If I may. I want to make a small crease in Justice Slough's last comments. Just a reminder to crystallize this. The authority for which these rules are predicated upon evaporates on June 30. That is a truth. That is a reality. Now it is to figure out what is the orderly way to transition and create awareness. The observation I wanted to make, just a small crease and to encourage the council members and everybody to be kind of open on this notion of explaining, being available, to create clarity for the users and practitioners and even the operators of the system because of this thing, which is some presiding judges, as we just described, court employees, court executive officers, and even practitioners, were not present in their current roles when these actions occurred in April 2020. Because being temporary, sure we all knew that and that is all true, but after two years it is hard to realize that that is the definition of temporary, because of that amount of time. Not only the two years but the concentration of the things that everybody was going through psychologically as you worked your way through this is that you may think, actually, this is how it works. It is not temporary. It is permanent. We have got to walk people across that zone to get back to us, no, no, no, no we are resetting. Some of those catchphrases are out there. We will return to the new normal. That is that cognitive dissonance thing that is going on. I just encourage everybody to do their best to create clarity and help everybody kind of move through that with this recognition that, folks, it was quite a time. Some folks were not even aware that this was happening. They just kind of grew up or came of age or entered the world in this space under these conditions and they may not actually have the perception that it was temporary. We just have to do our best to manage it and work everybody through it.

>> Thank you.

>> If there is not any further discussion, I would entertain a motion to approve and a second.

>> Motion to approve.

>> Second.

>> Thank you Judge Hopp. I'm about to take the vote in a moment but I also want to say that I am grateful for the chairs' work on this very detailed and the timing and the phrasing of the repeal of these temporary orders. I also want to thank Judicial Council members because all of you come from such diverse backgrounds with high levels of practice. I know that your input help us with the amendments. I saw, I think David's comments and questions so that helped us crystallize these rules and the amendments which are reflected in the mocked up rule in your documents. I also think it is really important to recognize Debbie Brown and her Legal Services team that never caught a break in all of this, and then sent to me, one harried weekend, an articulate, eloquent, and in my view legally correct document that described what we had done, where we were going, and what we needed to do to comply with an expiring, soon to turn into a pumpkin executive order. I also want to thank Martin and his team for their eyes on it and also interfacing with a lot of justice stakeholders that were calling worried about what this meant and what it meant to their cases. With that background, all in favor of approving these recommendations please say aye.

>> Aye.

>> Thank you. Any abstentions? Any noes? Recommendations are approved. Thank you Justice Slough. I think that you will stay there for the next presentation.

>> Yes ma'am. I will stay here but I will take off my internal chair emergency rule hat and put on my hat as a member of the Ad Hoc Work Group on Post-Pandemic Initiatives. Good morning, Deirdre. You are fine. Whatever you feel comfortable doing is fine. Chief and members of council, just to kind of reset us here for a moment as we get situated, what we just did by passing the revocation or sunseting an amendment to the emergency rules, was focus on the actions that we took in the throes of the pandemic. What we are now going to do is pivot and look at how we have responded during the pandemic as a judicial branch so that we can get a better idea of what is working, what we can do to continue to replicate programs that have worked over this time frame. Just a very quick overview, I want to highlight the work of the ad hoc post pandemic workgroup's activities since November 2021 and also give you a quick preview of our next steps. You may recall back in November 19 of 2021 on a remote council meeting, workgroup members Judge Ann Moorman and Rebecca Fleming shared with you the remote access bench guide which the workgroup worked on to be provided to judicial officers and hopefully provide them with some direction and assistance as they transitioned into remote proceedings. We do hope that it has been helpful to them. Just to kind of back up even a little bit further, and set the stage, back in March 2021, the Chief Justice asked members of Judicial Council to participate in this workgroup. She gave us a very specific task. That was to examine successful court practices that had been adopted during the pandemic, to evaluate them, and recommend practices that demonstrate the most promise to do three things. Increase access to justice, modernize services, and promote consistency throughout the state. I guess I will say, Chief, that your appointment of this workgroup really shows the wisdom and forethought and foresight that you had to capture real-time what was going on in the ground level within the trial court so that we could hopefully someday, when the emergency rules were lifted, which

has just happened, be able to continue to replicate these initiatives and move them forward. The creation of the workgroup allowed us to document what has been done throughout the state, not only within the branch but also hearing from external partners. Just a little bit about how we went about our business, we first reached out to judicial branch partners. We had 14 different workgroup meetings where we invited folks to come in and tell us what did they see going on in the courts where they worked that they thought was working, what should continue past the pandemic, and we asked them to really just focus on what was improving services to court users. And we really learned so much from this process. It was an incredible series of information gathering about the adaptability, creativity, and ingenuity of the trial courts as well as our judicial partners. We know that at a time when courts were having to actually close the doors, courts were finding ways to virtually open the doors. When we gathered the information we heard a series of themes. People wanted -- our justice partners wanted more consistent court practices within the courts themselves, individual county courts, but also within the courts across the state. They wanted greater access to the courts. They wanted to continue to move forward with providing access through remote services. We heard over and over again that they were hopeful that we did not just go back to standard operating procedures after the pandemic was past. With few exceptions we heard of a desire to continue remote access actually in all case types. After we received all of this information, the workgroup continued to meet virtually and began to dilute and sift and work through what we had heard. We have had a very extensive, deliberative process where we would always revert back to the Chief's charge. What did she ask us to do? How does what people have said to us impact us? How can we focus this? We took those ideas and the practices that were being developed throughout the state and the workgroup ultimately collectively agreed on a set of what we call concepts that we thought were worthy of further explanation and development. We heard from the folks, we condensed the information and developed our set of concepts. So then what we did to move them forward was we invited the advisory committee chairs to come in and dialogue with the workgroup to provide their expertise, to let us know are these good concepts? Can you see them coming to life? Can you help us further refine and move them forward? I will say that the advisory committee chairs and lead staff to them provided us with invaluable information and was really, really, really critical in us moving forward.

As we talked with them, we asked them to focus on the concepts in the sense of, if this moves forward, how would it move forward? Would it require a rule of court or a legislative change? Or is it something more appropriate for the development of best practices? I will give you a few examples of some of the concepts that we have been moving forward. I cannot really go through all of them, because there are too many of them. Increased use of settlement conferences in unlawful detainer cases. We really want and heard that it was helpful to encourage landlords and tenants to work toward the settlement of their case early on, as opposed to moving straight and directly to a trial. So this concept, we have asked and we are turning it over to the Civil and Small Claims Committee and are asking them for further consideration to work on this issue. The second concept is visual visitation. The court-ordered virtual visitation could provide a great assist for families. We know we have families that have court-ordered visitation. One family member may be living out of state, or out of the country,

possibly the military. One family member may be incarcerated. Virtual visitation could go a long ways to assist in continuing to build important familial bonds. So that particular concept is being handed over to the Family and Juvenile Committee for their further consideration and work. Several of the concepts the workgroup decided to hang on to them and move them forward ourselves. A couple of examples, are increased remote access between the defense counsel and the in custody clients. We heard that particularly during the pandemic, this posed a difficult block in being able to communicate. The workgroup intends to reach out to the state sheriffs association, to see if there are some measures that we can work together, and move the concept forward. Also, another concept we are maintaining is a checklist for future emergencies. As a prelude, we don't want them coming in too soon. If they could hold off a bit, that would be great. The courts have reported great benefit in sharing how they individually responded to emergencies. We felt working toward taking what we learned and developing a resource guide for the future emergent situations. Hopefully that will prove helpful, whether it is a statewide emergency, or more geographically isolated emergency, which we experienced with fires, and other settings like that. That is part of the work that we will continue to do. We are working with the advisory committees as they move concepts forward, and to work those forward that we have maintained them for ourselves. In addition, the next steps include the Chief Justice has asked that the workgroup spearhead Judicial Council's efforts related to Code of Civil Procedure section 367.9. That code section requires us to convene a workgroup, which is composed of judges, court executive officers, attorneys, court reporters, court interpreters, legal aid organizations, and court appointed dependency counsel, to help develop recommendations to the Legislature and to the Governor for a statewide framework for remote civil court proceedings, and court reporter availability and workforce. And, Chief, we look forward to working with and reporting to you on that. The last slide is our current workgroup members, and I have to say that I am so proud to be a member of this group. This is a dynamic group of folks who come to every meeting remotely, prepared, articulate. We agree, we sometimes disagree, but we end up in a really great spot, and I'm so proud of the work that has been accomplished by this great group of people and I would be remiss if I did not acknowledge staff. Ms. Benedict who is seated to my right, as well as Ms. Mairead Ahlbach, they have kept the wheels on our bus. I don't know how we would have done it because we have met so many times and we have gathered so much information. I'm telling you, within 24 hours after meeting, we have an Excel sheet that has been all listed, prioritized, so we can prep for our next meeting. So thank you so much, Dierdre, I really don't know how you do it.

>> It's a pleasure.

>> I also want to commend and say thank you to Leadership Services, Center for Families, Children and Courts, Information Technology, the Office of Court Research, and while I think about it, it would be a lot easier if I talk about Judicial Council staff that hasn't participated, if any of those actually exist. I think the DNA of the Judicial Council staff runs deep and wide through our initiative. It has been a pleasure. I have learned a lot. And we have made progress. And just as one last little teaser, Chief, as you mentioned earlier, we will be submitting to you a report on jury information, how to improve, hopefully jury, our jury improvement report, and I

will say as a teaser, I think it has a little bit of something for everybody. It has something for jurors. It has something for those who are summoning jurors. It has something that we believe is helpful for judges who are selecting those jurors to hear these important cases that are before us. Thank you very much, Chief. I want to open it up briefly if you don't mind to other members of the group for any comments that they may wish to add.

>> First, I would just like to say, having been appointed by the State Bar to the council a few months before the pandemic, I just wanted to thank you, justice, the Chief, the entire council, all the staff and the courts for doing extraordinary work in extraordinary times to ensure that our system of justice is not just continuing but improving. And I think it's a testament both in terms of the emergency rules and what you have just discussed. I did want to ask, is the working group certainly taking into account both security concerns and making virtual settings more available and also potential liabilities in terms of if some of these visitations, for example, are confidential and then there is tracking or interference with those, the liability of the council, the courts, just whether or not those things are going to be addressed as you continue your work.

>> Thank you. When it comes to technology, assuming you are referencing technology security, and I will say that that's where our Information Technology Advisory Committee and staff provide a great lift and assist for us. Technology security is always at the forefront of every tech initiative. We know that is a really important issue, and that will also be overlaid over the work that we are going to be considering as it relates to virtual visitation. Absolutely. I think what is so important about that and I think it's great that you focus on it, family bonds don't grow in public. Family bonds grow in private. So I need to be able to talk to you, my family member, and know that it is confidential for that to grow. So, not only is it important from a legal standpoint, it's important from the standpoint of trying to accomplish the goal, which is building on those really important relationships for our children.

>> Thank you. Ms. Nelson?

>> I would like to also echo, I was a member of this group and was honored to participate on it. I certainly echo Justice Slough's comments about the staff who have been amazing. And I would also like to thank all of the justice partners, people from the bar, people from organizations, legal aid, courts, court staff who came in to provide information that was critical to the work that we did. And most importantly, I would like to thank Justice Slough for leading us with grace and courage, and always with the comment at the end that we need to do what is right. So hopefully, stay tuned, we will have more in the future, and I don't know if we will ever sunset.

>> I was going to say, Ms. Nelson, you said I was a member and I was going to say, no, you are.

>> Thank you.

>> Yes, thank you Chief, but I also wanted to comment and add to the conversation for Mr. Pritt's question, in this particular budget proposal, we are amplifying the need for security and information of our systems. We recognize as we continue to expand and make investments in this area at the same time we have to be protecting it because naturally the more you do, the more your exposure is. So we are beginning to amplify and ramp up this notion that we have to protect, not just provide the provisions and types of services. I was going to home in on Ms. Nelson's use of the past tense, so that led to my question, are you, Justice Slough, still in rolling production mode?

>> Yes, sir, we sure are, not only will we be rolling out the jury report, we also, all members, are assigned as a liaison to each of the advisory committees that have been assigned concepts, so we will be continuing to not only see how our concepts are moving forward, but we need to continue in our efforts to take that dive to find out what is working and what do we need to continue to do, things we haven't even thought about yet. So yes, we are rolling on.

>> Any further comments?

>> I would say two things as well, and that is I think it's significant and this work is being done while we are on horseback, as my colleague Justice Corrigan likes to say often times, and I also want to point out that it has been referred to but not specifically, I want to say thank you to Senator Umberg for his sponsorship on the legislation that is allowing us to proceed remotely to gather data. In some ways it takes some things off the plate at the moment but as Martin says, it is a rolling production. So we are really moving into a new era for the branch and I have deep gratitude for everyone who is doing this work, and it bears repeating that while we have a stellar Judicial Council staff that helps us immensely, and we couldn't do this work without them, I also think I want to thank the court staff that are essentially doing this when they are not working, whenever that is. So thank you for this, we look forward to another update.

>> Thank you very much, Chief of council.

>> Our next item is 22-59 and it is trial court budget and the 21-22 State Trial Court Improvement and Modernization Fund allocation adjustment, and this is for Judicial Council information tech office. It is an action item and we welcome Judge Jonathan Conklin, who is chair of the Judicial Council Trial Court Budget Advisory Committee, Ms. Rebecca Fleming, vice-chair, and of course Ms. Heather Pettit, Judicial Council Information Technology, and it's nice to see all of you in person.

>> Thank you very much, these two brief items come to you from a recommendation, as a recommendation from the Trial Court Budget Advisory Committee. As we start, I want to acknowledge this is in partnership and vetting through JBBC and Judge Rubin and his committee so TCBCAC made these recommendations. We work hand in glove with JBBC as we typically do to bring these recommendations to you. The first is a recommendation concerning an allocation from the Trial Court Improvement and Modernization Fund related to information, the Information Technology office. Heather is here, this impacts her at her office

in this sense, in my perspective, it provides her great flexibility for, as we all acknowledge, the outstanding work that she and her team does. So not to give you too high of a flyover on this but to keep it within the five minutes allocated, this is essentially an accounting adjustment to allow for these funds, it is a net zero change for dollars, and simply allows these funds to be shifted from controlling consultants or perhaps contractors to full-time equivalents. In layman's terms, this will give I.T. the ability to hire these four staff positions, not that the consultants or contracting positions were not effective and very helpful to that office, but this provides them more stability. As the report indicates, once they have staff members working on this, it just gives foundation and stability to their work. So the recommendation is that this net zero adjustment to be approved to allow for Ms. Heather Pettit and her team to make those changes. We are open for questions.

>> Thank you.

>> I move to adoption of the recognition, when this came to the Budget Committee after hearing a more detailed presentation, my question was, why wouldn't we do this, because it was all upside and no downside?

>> Thank you. Do I hear a second? Thank you Judge Brazile. All in favor, please say aye. Any noes? Any abstentions? The recommendation is approved, thank you.

>> Thank you, Chief.

>> And I understand both you and Ms. Fleming will remain for the next item, number 22-60, funding floor allocation action item.

>> Yes, thank you and the only reason I continue to present on this is because I won or lost a coin flip yesterday, depending on how you see it. Ms. Fleming is equally important, if not more so in this. This gets a little more granular in funding allocations for the branch. I hesitate to go back to but you are all familiar with the workload methodology and how these funds are distributed throughout the branch. And this addresses a rather particular aspect of that and that is for the two smallest courts, in this case, Alpine and Sierra. And when I say small, I don't mean that in any way to implicate that the work they do is small, but just the physical size and the staffing of their courts are small as compared to most. And that is a unique aspect of the funding methodology because they essentially fall outside of the workload methodology. They are so small, the work they do and the cost that they do was carved out from the workload methodology and they were given a set amount. The advantage to them is that gives them the ability to plan and to forecast. Candidly the disadvantage that has come to light, since it moves them outside of the workload formula, they don't get to enjoy the increases that typically result from for instance inflationary costs. It is just a set budget for them. This expands that budget to allow them to do the necessary work that they do. So the example we give, and I don't mean to oversupply this, but we all pay for postage stamps, perhaps the better analogy today is we all pay for a gallon of gas. Seven dollars on the way up, it was. So these courts are impacted by that and if we don't increase their financial allocation to address that, it puts them behind the

curve. So quite simply, this is asking the council to approve that increase from \$800,000 to those courts, to \$950,000 to allow them to continue to do their important work and business. And I don't know if the true expert wants to add anything to that.

>> I would just add that Alpine and Sierra have done a phenomenal job of tracking their activity and keeping us apprised of their situation and when we did a deeper dive on this, we were in the middle of all the other crises and they were just so impressive. So I would just say while they are our smallest brother and sister courts, they are certainly large in their ability to produce information and represent us.

>> Thank you Ms. Fleming and thank you Judge Conklin, very well presented. We are open to remarks, observations or motions.

>> Chief, I would like to move approval of the recommendation and I also would like to add in terms of their outsize impacts, having visited both those courts, they play an outsize role in their leadership within their communities and with their counties. They are kind of the magnet for public information and dissemination of public information, which both during times of pandemic but also environmental calamities, the courts keep their doors open and they keep the public informed as best as any public agency I have ever seen. They are really great, they are very strong citizens.

>> Thank you, Judge Moorman, I appreciate that information, that personal knowledge for all of us. Thank you. Justice Corrigan seconds? Is that right, Judge Anderson seconds. These masks, I don't know. All in favor of approving the recommendation, please say aye. Any noes? Any abstentions? The recommendation is approved. Thank you. We are going to change seats, now. Our next item is 22-080, action item on rules and forms, judicial branch administration, Data Analytics Advisory Committee. We already have an acronym for this. We invite Justice Marsha Slough, chair of Executive and Planning, and Judge Kyle Brodie, chair of the Judicial Council Technology Committee.

>> And I'm not a fan of acronyms.

>> Good morning, and thank you for allowing us some time to talk to you about a proposal to the council and it stems from the council's discussion when the Data and Information Policy Concepts report was reviewed in May of 2021 and at the time the data analytics workstream had presented its report to the council and there was a discussion recognizing the need for a governance model frankly just around how we gather data, how we share it, how we protect confidential data, both the data itself and the sources of data. These are complicated questions and all of that was guided by the vision from that report, which was to use and share data to inform, to make data-driven decisions, to improve access to justice, to enhance the services that we provide and to use real data, real information to make those decisions. So, these are difficult questions that have to be answered and frankly, the scope and breadth of the questions, it's hard to anticipate everything we are going to have to address because as the technology moves, there will be new questions presented that we wouldn't necessarily anticipate and the council

recognized a need to have some body to establish best practices, to recommend policies that would govern our use of data. So in response to that discussion, a small working group was created, consisting of Executive Committee and Technology Committee members from the Executive Committee was Justice Slough and Judge Moorman. And from the Technology Committee, myself along with Mr. Shawn Landry, to figure out how we would recommend the council proceed. We started by discussing what the business objectives would be for that new governance body, what would be their goals, what would be their charter. And, once we had our arms around that, at least, we looked at the charters for the existing advisory bodies. With an eye toward avoiding what could be the sort of natural default solution which is to create another advisory committee. I mean, it happens and it's important and often necessary, but we took a look at our existing council infrastructure, if you will, to see if there was another group that was already addressing some of these questions. And also, we took a look at what a new rule of court would be, what it would look like for establishing that new group. And what we found was that the Workload Assessment Advisory Committee, WAAC, I apologize for the acronym, but that committee was already looking at a lot of the questions that we believe the new data analytics group would be looking at. What do courts do? What is the work that they do? How do you measure that? How do you create consistent metrics across courts which can have all sorts of different operational details, but you need to have some kind of consistent tools in place so that we are sure we are comparing apples to apples and oranges to oranges. Anyone who is taking a look at this recognizes how slippery that can be. And difficult. Because, you know, this is a consequence of 58 superior courts, it's inevitable. So, that advisory group was doing a lot of the work of trying to bring some sort of consistent measurement to the workload of courts, and we believed and we would recommend that advisory body's work be folded into the new advisory committee's charter, if you will. I want to pause here and I want to thank the work that WAAC has done, to really grapple with -- I have never been on that advisory group so I say this as an outsider but even from that perspective, the questions they have had to wrestle with, they are difficult. And there are strongly held views and principled views frankly on different sides of many of these questions. And people operating in good faith, and well informed super smart people, I have seen, they just see things differently sometimes. So it's the immediate chair, Judge Alksne, did a great job of managing that work and the current chair, they have really laid a strong foundation for us to move forward. To build on that workload, that workload data, and now to take it relate to the next level, to go beyond just that part of our work, but really more fulsome and robust appreciation for all of the work that courts do. In every aspect of their operations. So the additional duties are on page 5 of the report, I won't read them to you but I would commend you to take a look and thank you, and Justice Slough had some comments as well.

>> Thank you very much, Judge Brodie, I think this is an important next step but it's also an important opportunity for us to recognize growth in our branch as a whole. I know it wasn't all that long ago that if we started talking about data gathering, sharing, data analytics, we were talking about a very difficult and controversial subject amongst the trial courts. I know because as a presiding judge at the time, it was a very sensitive issue. And we have grown so much in the branch because we realize that data is so important, not only internally within our courts but

also within the branch and also to help us advocate for certain positions. So there has really been a sea change in the understanding of the value and the need of this type of committee. Judge Moorman and I had an opportunity to host an informal webinar to talk about the committee, and we invited all the CEOs and PJs in mid-December because we wanted to get feedback and understanding as to how people would view this. We had over 50 attendees participate. Several of those who participated voiced extreme support for the proposal and in comments like, it's about time, yes we must do this. Again, I think that supports the understanding and the clarification of how important working with data and working together with data is. Following that, the rule went out for public comment and during the public comment phase, we received one comment about it and it was yes, let's do it. So, with that, we look forward to your vote, we look forward to the work group being, members of the work group being selected. If it is approved by council today, the intention is that the new advisory body membership, the application process for it would go out today. So folks who wish to participate can apply. Folks who participate in the current workload committee are invited to submit if they want to. The work group will be made up of judicial officers, court executives, as well as court staff who have expertise in data analytics. So with that, we are open to questions, thoughts, ideas, and at the appropriate time, Chief, a motion.

>> I would like to thank my fellow committee members and staff, this is an evolution that has been coming on its own, it's a very natural evolution within the branch, and I would like to move approval.

>> Thank you. We have a motion and a second?

>> Second.

>> I also agree that this is a natural next step, and I wanted to say a little bit about WAAC. I thought the WAAC committee has an incredibly hard challenge but they always did their homework and showed their math, and I always appreciated their presentations because they were spirited, they were convivial and informative. So I do hope that if there are WAAC members out there and that WAAC essentially going to be responsibilities charged to the new DAC, that they apply because that is some historical information that they have and I think for us in the judiciary as we all know and lawyers and court staff, a disagreement creates a better product. I don't say that to say that WAAC always had disagreement but I always appreciated that they took in the different points of view very graciously. So with the motion and second, all in favor of approving this recommendation, please say aye.

>> Aye.

>> Any noes? Any abstentions? It is approved, thank you Judge Brodie and Justice Slough. And for final discussion item which is not an action item, today's business meeting will combine in person and remote presentation for judicial branch technology, court modernization funding, fiscal year 21-22 and, as our presenters settle, introduce yourselves again, but we welcome Judge Kimberly Menninger, Mr. Rick Walery, did I say your last name correctly?

Thank you. Ms. Heather Pettit, Judicial Council Information Technology, Ms. Emily Morrison, Administrative Analyst, Superior Court of Orange County, and Ms. Daisy, can you help me say your name correctly ?

>> Yes, that is Daisy Ni.

>> Thank you, Superior Court of San Mateo County. Please proceed.

>> Thank you, Chief, thank you council members. I love coming here and delivering good stuff and we are going to talk about good stuff today. So, we are going to give an update on the court technology modernization funding. Just as a reminder, this program is made up of two buckets, it is made up of local court initiatives as well as branchwide initiatives, and so under the guidance of the Technology Committee, we have really worked to streamline how we get work done, how we create standardization across the branch. So this is just going to be a highlight of some of the wins, as well as more information in the packet so if you want more details about what we are working on. Just to kick this off a little bit, the current year right now, this fiscal year with our one-time set of funding, we have 95 local court projects for modernization and technology going on across 13 different types of programs. Of course the top one as it has been the last several years are the electronic records and digitization of them. The one that is really important to note is the one on the bottom that says case management systems. That 12% of them reflects five courts that when we realize the importance of this kind of new world we are living in, we said case management systems must be updated. Why we are able to do data analytics is because we are using modern case management systems, so the Technology Committee made a recommendation that a priority must be to fund case management systems, so the remaining courts that were out there that had not had the funding to do this, now had funding to do the upgrades to the case management systems which is a huge win and opportunity for us. One other thing is that at the council, we haven't provided services that relate to getting courts' operations running with technology. As it is reflected here, we now provide project management services for over 21 courts, which is huge for those that don't have that expertise, we are providing that for them, so it gives an opportunity for us to have greater success in implementing technology solutions. The other thing I think is important to know, we have branchwide programs that we are rolling out as well. The first one that has been huge and is now being piloted by another court is Los Angeles Superior Court created a text message reminder system, they are onboarding their second court now, so literally, we pay for it, any court is going to be able to join and we will send text message reminders out to anybody who signs up for the process. Reminders of hearings, notifications, when you have to come into jury, all of those will be included. The other thing that is really important is we had a program called TAP that is a transcript program for the trial courts to send to the Courts of Appeal. Los Angeles also rewrote that program, we are rolling it out now, we will have it rolled out to 30 courts by the end of August. Again, courts coming together and working. And of course the last one which is our information security training programs, we have used that money to fund educational programs across the branch to prevent any type of ransomware. As we know what is going on in the world today, we really need to be mindful of security. So those are the

branchwide. So, what we are going to do is give you a little snapshot of where we have branchwide programs that have been successes and some local courts successes. So the first one, we presented this to you guys last council meeting, Futures Commission item. The voice to text translation, CA Courts Translator, we have 13 courts piloting that right now across the state. We have 854 conversations, our top languages are Spanish, Chinese, and our average rating is, right now, is four out of five stars in the use of it. Without further ado, I'm going to turn it over to one of our pilot courts which is San Mateo. And please take it away and tell us all about the process.

>> Great, thank you, Heather, good morning, thank you for your time today. My name is Rick Walery, I'm the court I.T. director at the San Mateo County Superior Court. I'm here with Daisy Ni, our judicial fellow this year, and we are going to give you an update on the voice to text translation pilot program as well as our experience in San Mateo. So as for background as Heather mentioned, this was an initiative out of the Futures Commission and based on that a workstream was formed to assess the maturity and viability of the technology to be able to help with translation and interpretation outside of the courtroom. And the outcome of that workstream was a recommendation that we produce an in-house application to perform these services. So currently that application is being piloted in 13 courts, it's a hardware/software solution, and it uses voice recognition, translation and transcription services. In terms of our experience in San Mateo, we started our pilot in October 2021 and in the initial deployment model, court staff would use a dedicated tablet to start the session and the expectation was the limited English proficient person would use their device, most likely a cellphone, to connect to that secure session for the translation. In terms of where we are piloting it, we are piloting it in our traffic clerk's office at the filing counter as well as in our small claims office and our self-help and family law facilitators offices. Since we have gone live, we have pivoted a little bit on the customer's side of the hardware. And Daisy will go into a little more detail but now we have additional tablets from the Judicial Council that we are able to pre-connect to the session and we are able to hand the device over to the customer and it really speeds up the onboarding process. In terms of the some statistics, we had 238 conversations, I would say these numbers have been impacted a bit by our closures in public hours being reduced during the pilot, about 2400 messages have been translated. Our statistics and languages track to the state's. Spanish is by far the most popular translated language. Our aggregated average rating both of the court staff members and the public is 4.6 stars. Now I will hand it over to Daisy to talk about lessons learned and next steps.

>> Thank you, Rick. We have seen a few challenges in our experiences that have allowed us to learn different lessons. For example, we had experienced a little bit of difficulty especially at the beginning with customer onboarding and setup. That is, it's difficult to communicate to someone who is limited in their English proficiency how to use the technology in the first place. So to navigate this challenge we have developed a few sets of instructional graphics, we are continuing working with the Judicial Council on developing more video content as well as other translated instructions. We have also found some customer devices connect more or less easily with the application, for example there are differences in terms of Android versus iPhone,

so the two tablets model that Rick mentioned before has been extremely helpful in this regard and allows us to effectively bypass these variations in terms of customer devices. We have also found that there are some areas of the courthouse that have stronger or weaker signals in terms of cellular accessibility. So the two tablet model here is also helpful because it provides two sets, a set of devices that are pre-connected to the Wi-Fi. Two more areas that I wanted to discuss, the first we have also found that not all interactions are created equal. We have found that interactions that are slower, a little bit shorter, have worked best with these devices, whereas longer and more narrative forms of conversations such as in our self-help center, these are difficult for the technology to pick up and translate. However we have found that the translations are typically very good. And lastly, not all languages are created equal. We tend to have many members of staff available on hand who speak Spanish. So when a customer who also speaks Spanish comes in, they tend to want to speak to a human who speaks the language as opposed to the technology. In terms of moving forward, we continue to work with the Judicial Council, the other pilot courts, as well as our internal team. We meet on a recurring basis to identify the challenges ahead as well as troubleshoot them and we look forward to continuing the collaborative efforts through the end of the pilot which is the end of June. So with that, thank you for everyone's time.

>> Good stuff, right? I think that this technology, when we looked at it I don't know how many years ago, it was not anywhere near where it is today. So the fact that we can take this and hand it to somebody and have a way to dialogue with them, to get them where they need to go is huge. It's a great opportunity. That was a branchwide initiative, right now we are going to focus on something that is near and dear to all of our hearts, especially with the pandemic happening. It is a local project, it is the Digital Evidence Workstream that has been ongoing right now and it is also one of our core realities that we have to get this dialed in sooner rather than later, or we're not going to have this digital court. So Orange County has stepped up, they have taken the lead on this, so they are going to give us an overview of their experiences with their pilots that we funded for the digital evidence. And that is Judge Kimberly Menninger as well as Emily Morrison.

>> Good morning, I'm Emily Morrison, administrative analyst with the Orange County Superior Court. I'm one of the subject matter experts on the electronic evidence project. We are going to share information about the inception of the project as well as discuss a submission of a piece of evidence in the electronic evidence portal. Kimberly Menninger is going to share information about the inception of the project.

>> So, good morning. I'm super pleased to be here with you this morning to share the electronic evidence proof of concept with you and to give you a sneak preview of the progress of the statewide electronic evidence workstream initiative. Electronic evidence or digital evidence began at the state level in ITAC. I served as a sponsor for the Electronic Evidence Workstream 1 and I'm now the sponsor for Workstream 2. One of our goals was to implement a proof of concept in a court setting and to evaluate the tool. My court, Orange County, was ready, willing, and able to participate in the proof of concept and so we began. We issued a

request for proposal and we selected a vendor and in this case it was Omnigo. We used a very unique process for the RFP, in that there was no obligation to buy the product, only to try it for the proof of concept. This was very cost-effective and allowed other vendors to stay engaged in the process in case this particular vendor's proof of concept did not work. We did however award the contract to Omnigo and we implemented and are now into production. I'm going to pass this over to Emily Morrison, who is the subject matter expert on this process. Emily?

>> Thank you. So we had to make some decisions prior to the launch of the portal, which impacted the look and feel. Our aim was to streamline processes because we wanted to make this as simple as possible for self-represented litigants to be able to upload to the portal. We selected five pilot courtrooms to the proof of concept, one family law, one small claims, one unlawful detainer, one probate, and one criminal traffic. When we think about exhibits, we traditionally think of physical copies, which may be loose papers or binders that may or may not be marked with identification. We may also have a variety of exhibit statuses across multiple case types. With the all-electronic evidence portal, we were able to support a wide array of file types and once exhibits are uploaded to the portal, an additional exhibit tag is fixed and they are automatically numbered. We identified three exhibit statuses for the proof of concept phase to help streamline the process. And they were lodged, marked, and admitted. First I'm going to discuss the steps for a party or attorney to upload, and then we will share a video with you so you can see the process. In the first step, parties must create an account to upload to the portal. Then they will select all the exhibits they would like to upload. Upon upload, they will add a description for each individual exhibit, then they will mark each exhibit that they believe are confidential and organize them in their preferred order. A really useful feature of the portal is that the court can always make adjustments to descriptions, exhibit numbers, etc. after upload if necessary. In the final step of the process, the parties will review their exhibits and finalize their submission. Parties can also print a receipt of the exhibit they uploaded and view them after submission. Now we are going to share a video with you of the process.

>> [Video playing] The Orange County Superior Court is implementing an electronic evidence portal. It is currently being used in remote proceedings with future expansion to in person hearings. In order to access the portal, parties are directed to the Orange County Superior Court's public website. Portal users are required to create an account through a verification process. Let's go over user navigation. To upload evidence, parties complete a five-step upload process before confirming their exhibits. The five-step process is as follows. Users first confirm their case number, court hearing and party name. Then, they add files through a drag and drop process, all file types are supported. A description is then added to each exhibit. Exhibits are then marked confidential if applicable. Users are then given a chance to renumber exhibits if necessary, the portal has the ability to assign exhibit numbers. The exhibits are uploaded upon completion of the five steps. The user has the option to print a receipt listing all the evidence uploaded. Once the upload is complete, the user can select Gallery to view the evidence that has been uploaded.

>> We pulled some statistics in the beginning of February and as of the beginning of this year, we had a total of 4,318 party and litigant accounts and a total of 4,537 cases with a grand total of 137,007 digital files uploaded to the portal since April of last year. So in March 2019, Chief Justice, you delivered your annual State of the Judiciary address to the California Legislature and you stated that improving online access to justice makes sense in California. Many Californians expect this kind of service from their courts. Orange County's mission is to serve the public by administering justice and resolving disputes fairly, efficiently and expeditiously. And by offering this tool we can remain aligned with the Chief Justice's vision and our court's mission.

>> We appreciate the opportunity today to share our proof of concept with you and I would like to share a few of the anecdotal pieces of information we have learned. We are currently using this for family law, small claims, probate. We did not successfully complete it in the traffic and there's a lot of reasons for that that will be managed in the next year. But many of the calendars I mentioned are heavily used by self-represented litigants. When we started, self-represented litigants weighed heavily in our requirements for the request for proposal. So we selected this particular vendor to meet those needs. To that effort, we also selected a process that involved a very simple uploading process that allows people even using their cellphones, with great ease, without a computer, to have the ability to successfully use and manage this technology. We have been pleased to hear back from the reports from the judicial officers who help handling these calendars. They have reported it's easy for them to upload, easy to organize and they're very happy they don't have to have a computer to do it. Challenges that have been reported to us involve things like the hybrid court scenario, where somebody is in the courtroom and they want to try to upload in that environment without taking a break. We have not figured out yet a quicker way to manage that. To be quite frankly honest with you, and maybe this is surprising to you, maybe not, some of our biggest challenges have come from some of our most experienced attorneys who are solo practitioners who have been in business for a long time and are struggling with technology in every aspect when it comes to this issue. The next steps in our proof of concept were to try to create a smoother environment in these hybrid hearings where the litigants can upload faster in our hearings faster and more efficiently, to provide computers for self-represented litigants so they can do the same if they are in a hybrid hearing where they need access to it in a courtroom scenario. To design a criminal legal procedure that would include our traffic calendars, and right now we are working with our justice partners to design that. To that effect, we have set up a test case environment for a fake case where they are now on both sides uploading various formats of evidence, sharing the evidence with one another, and experimenting with the numbering features. We expect to get feedback in the next couple months to redesign for that particular group of court users. As for the statewide initiative, we remain focused on providing access to justice through this workstream. We are hopeful that our litigants, especially self-represented litigants, will be able to appear remotely, present evidence remotely and be heard in court. We will incorporate the lessons we learned here in Orange County from our litigants, our partners with the courts throughout the state, our research regarding the existing state of current projects and needs of our litigants to provide you eventually with the final electronic evidence report, phase 2. Which we hope the courts can then

use as a guide to expand access to our courts and increase access to justice. Thank you so much for the opportunity to share our work with you and I want to say thank you to all the staff including Emily who led this effort. It has been truly successful and very appropriate for people who could not otherwise represent themselves in a courtroom setting.

>> Thank you so much, Judge Menninger and Ms. Morrison, we really appreciate this presentation. We have made a lot of strides, we really could not do this without the courts' support, their partnership, and more importantly, the leadership of the Technology Committee. I cannot tell you how thoughtful they are in deciding how we do our funding, the process, the allocations, so I would be remiss if I did not give an opportunity for Judge Brodie to give some thoughts on this because it really is the work of all of us as a branch to be successful in this space.

>> Thank you, I will just say briefly, it really is great to see the diversity of projects, the creative energy that all the courts have brought to solving really long-standing, and again sometimes seemingly intractable, problems like digital evidence. It sounds good to have a remote hearing until somebody says, can I show you this document? No. I mean, that's not really the right answer. So these grand ideas, this restructuring, it's sometimes those details can be very vexing and things can fall apart if you don't account for those. So I really want to commend, from that to just the very basic challenges that California faces with such a diversity of languages and a limit on resources and to let people be heard and to get their work done, these creative solutions could not work without a committed community of people working together, working collaboratively, sharing resources, sharing ideas, pulling in the same direction. So to every court who has some of this funding and is working on these projects including the two presenters today, thank you for your continued engagement and commitment to delivering excellent results and using technologies. So thank you.

>> Martin?

>> Members, I'm sorry, I don't know why I'm so chatty today. It could be just the exposure to other human beings is stimulating. I promise to be more reserved in future meetings but, I'm curious about this, because something that you mentioned, Judge Menninger, in the remote setting, how it changes the complexion of things and I know there's an issue related to the rules that have to go along with this as you navigate that, and maybe that's to come, maybe in P3 and other places to work through that. And I don't want to sound like one of those guys that says this is really amazing but how come we haven't done all these things, because it's definitely amazing progress. However, it's the thing that you said, which is, the way I understand it, I would love to hear your thoughts because I've got to believe that you are, about the notion of the types of evidence that are coming in. I have seen those examples where somebody doesn't want to just give you the document in the remote thing, but I happen to have this video, so when you get into these images and videos, you're getting into a really big bandwidth situation related to that. So I wanted to know your thinking at the court or any other members of the panel about that, is that something that is on the radar that people are contemplating because

you can start to see where this continues to go and grow, given all the trends of what is occurring.

>> Thank you for that question, I want to refer to Emily because I know we have some numbers on this. I know this particular product, and again there's a lot of products a court can buy, but we did ask them to be able to take anything. What is the most we have taken as far as gigabytes or what is the level?

>> The maximum that we can accept is 100 gigabytes per exhibit, so we haven't reached the limit yet.

>> We have taken videos on more than one occasion, numerous videos. We are working now with our criminal partners because we have more body-worn camera footage now and that is where we are going to get tested, that is my guess. That will be the bigger challenge, at least we think so. We are waiting to see. So far nobody has come close to our limit. Does that answer your question?

>> Yes, thank you, Your Honor.

>> Of course, good to see you.

>> I thought that was a really outstanding presentation. I wanted to address the electronic exhibit piece. During the pandemic I was fortunate enough to be able to help out in small claims, I'm in San Diego, so we did so, and what I came out to find out is the litigants really do like it. Two, just always remember that our court is in the context of the greater society that is using all these electronic products a lot. And I'm finding that we are just trying to keep pace with them, so there's a comfort level with it that, at least as a trial judge, that I was not ready for but they are much more comfortable with it, comfortable sharing it. There are ways that you can, on the fly, if somebody has a document you haven't seen before and small claims gets it, so I was really impressed. But I love the way this looks, and congratulations everybody.

>> I'm going to say, as to both of the presentations, that is the voice to text and electronic or digital evidence, truly for those of us in the branch a long time, this is awesome! And I never use that word. But it really is, in the sense, let me just take voice to text and self-help and the digital evidence. If there hadn't been, sadly, a pandemic, I'm not sure we could ever launch this in a way that people were willing to embrace, judges and lawyers. And I would also say that it has been my experience that people who are unrepresented are willing to find other ways to get things before the court. And because it is new to them, they are willing to try to use the voice to text or how can I get electronic evidence uploaded. And it's in every aspect of life. If you file your taxes, they wanted it digitally uploaded. But if you can't do it, you call your 13-year-old daughter to come scan it for you and find out all the free programs that will allow you to PDF it. I'm grateful that we have Judicial Council members, legislators here, who can see the leaps and bounds of the use of technology and that it is embraced by self-help, people who are unrepresented, which in many of our instances as Judge Menninger described, and what Mr.

Walery and Ms. Ni has described, that is where our caseload is quite frankly, in self-represented litigation and the kinds of cases that are about home and hearth and family, and they are willing to try remote litigation. They are willing to try to upload these documents. They will get help from the court, we are willing to give it, and it opens up an entirely new horizon for law. I can't imagine, many of us took out the little roller of stamps and said Exhibit 1, shows it to the jury, it comes back, you put it in a book, you put it in your overflowing evidence locker. This is truly, truly awesome. Thank you, thank you.

>> If I could ask a question about the voice to text, is there any consideration in expanding that to other case types, in particular, I'm thinking UD, where it might be really helpful. The second thing is, is this something we are anticipating to be able to share with our colleagues in other states who may have similar challenges or who might be able to use it? And maybe we can recoup a little bit of the cost of developing it?

>> Judge Hopp, I will say, the voice to text, there's really no limitations on it, we can use it any way. It's really the adoption of getting people to use it. They have done an outstanding job of trying to figure out how to engage people in the process. We have talked about this. The technology grows, so this is newer technology that learns as you use it. So as we have more languages and more people, the more the vocabulary grows, adding legal terms, so we are still at pilot stage and when we start doing more en masse, I'm definitely open to the idea of recouping some costs.

>> And I will make one comment in terms of the bounds of technology, currently we are staying outside of the courtroom. That is, anything outside of the courtroom is open, but nothing in the courtroom.

>> Well thank you for this presentation, we look forward to the next one. It is an exciting time. So thank you and your courts, all of you for your good work and sharing it with us today.

>> Thank you.

>> This concludes our March 2022 Judicial Council business meeting. Our next scheduled business meeting will be May 12 and 13th. Safe travels. Thank you, this meeting is now adjourned.