

The Judicial Council of California is the constitutionally created policymaking body of the California courts. The council meets at least six times a year for business meetings that are open to the public and audiocast live via the California Courts website. What follows is captured live captioning, formatted and unedited, of the last meeting. The official record of each meeting, the meeting minutes, is usually approved by the council at the next business meeting. Much more information about this meeting, the work of the Judicial Council, and the role of the state court system is available on the California Courts website at [www.courts.ca.gov](http://www.courts.ca.gov).

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>> Good morning. We'll have everybody take their seats so we can get started on our agenda. Good morning. This is the business meeting of the Judicial Council of California for Tuesday, October 27, 2015. The meeting is now in session. We plan to adjourn this afternoon at approximately 1:00 p.m. But before we begin with our regular agenda, I would like to acknowledge the one-year Judicial Council meeting anniversary of our Administrative Director, Martin Hoshino, who didn't know this was coming.

>> [Laughter]

>> One year ago today, Martin gave us his first director's report. The traditional gift for the first anniversary is paper. And we have that in abundance. We've given it in abundance to Martin Hoshino. In his first year with us, Martin has put his time to very good use on behalf of the council and the branch. He's had engagements, north, south, east, and west. He's met with trial court leadership, bar associations, and numerous judicial branch and justice system stakeholders. He's walked the halls of the capital, worked the phones and the e-mails, answered questions, clarified misperceptions, corrected misunderstandings, and provided information and insight on behalf of the council and the branch. He has expounded a public service and good government ethos through transparency, partnership, and a collaborative philosophy that has been welcomed by many decisionmakers. He certainly has seen a lot of paper: reports, audits, surveys, comments, recommendations, and studies. But he's not been a paper tiger. He's certainly lived up to his billing, and he's been the right person at the right time for our council and branch. He's taken action and gotten results, and he's leading Judicial Council out of some challenging times with audits and studies. He's effectuating change, improving processes, and refocusing efforts with a true public service perspective and focus. Our strategy is clear, and Martin and his staff can turn those operational realities into a benefit for all Californians. Thank you, Martin.

>> [Applause]

>> Thank you, Chief and members, for the opportunity.

>> So we're at this point in our agenda as you know that this is the swearing in of the new and appointed Judicial Council members in their role. Martin is the council's sixth administrative director in its history. And I'm the eighth chair. There have been approximately 500 judges, court administrators, and attorneys who have served on the Judicial Council since its creation. In recent times, a further 400 dedicated public servants volunteer their time every year to serve on our advisory bodies. They are here not to represent any particular constituency, as Judicial Council members, regardless of how they were appointed, but all of you are here to share your knowledge, skills, expertise, and experience to enrich council's fact finding and decisionmaking process. The council as you know is not about managing day-to-day local court operations at either the appellate or superior courts. The Judicial Council is not a tribunal and cannot intervene on behalf of a party or a case or a pending case. Or offer legal advice. The Judicial Council of California is about policy, governance of the judicial branch, and the statewide administration of justice. The Judicial Council is about protecting and fostering equal access to all. It does so by identifying the issues, responding to the concerns of stakeholders, and advocating for change when necessary, creating effective and efficient solutions to problems. So I will now have our seven new council members beginning their terms of office and our five reappointed council members to join me for the ceremonial swearing-in. Our seven new council members are first, Presiding Justice James Humes, Court of Appeal, First Appellate District, Division One; Judge Samuel Feng, Superior Court of San Francisco County; Judge Dalila Lyons, Superior Court of Los Angeles County; Judge Eric Taylor, president of the California Judges Association, and from the Superior Court of Los Angeles County; Mr. Jake Chatters, court executive officer, Superior Court of Placer County; Ms. Kimberly Flener, court executive officer, Superior Court of Butte County. And Mr. Patrick Kelly, attorney and State Bar of California appointee. Our five reappointed council members are Assistant Presiding Judge Daniel Buckley, Superior Court of Los Angeles County; Presiding Judge Brian McCabe, chair of the Trial Court Presiding Judges Advisory Committee, and from the Superior Court of Merced County; Judge Gary Nadler, Superior Court of Sonoma County; Presiding Judge Marsha Slough, Superior Court of San Bernardino County; and Charles Wachob, Superior Court of Placer County. Please stand as I administer the oath of office. Please raise your right hand and repeat after me. I do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic, that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California, that I take this obligation freely, without any mental reservation or purpose of evasion and that I will well and faithfully discharge the duties upon which I'm about to enter. Congratulations. Welcome. And thank you.

>> [Applause]

>> Our first item of business on our agenda is the approval of the minutes from our August 20 and 21 meeting. Do I hear a motion to move an option? Judge Nadler.

>> Second.

>> Thank you, Judge Tangeman. Hearing no discussion, all in favor, please say aye. Any opposed? Any abstentions? Minutes are approved. Next on our agenda is my regular report as Chief, summarizing my engagements and ongoing outreach activities on behalf of the council and the branch since our last regular meeting, August 20–21. I had the great pleasure of seeing the work of this and previous councils on the need for accessible and efficient court facilities. This came to fruition when I attended, along with a number of you council members, the dedication ceremonies for two, new long-awaited court facilities. The Center Courthouse in Yuba City and the Woodland Courthouse in Yolo County. These courthouses not only improve access to justice in those communities, but they also enriched those communities and they demonstrated the importance of collaboration between the courts, the cities, counties, the council, and other state-level entities in building these courthouses. The judges, staff, justice system partners, and court users and clients now have a vastly improved venue and forum for the rule of law and to exercise their legal rights. California Secretary of State Alex Padilla and I participated in a number of civic learning and civic engagement opportunities together. We participated in the California admission day celebration at the Secretary of State’s office with teachers and members of the legal community. We recognized 165 years of statehood for California. The official state song was performed and it is “I Love You, California.” Also an original 1849 state Constitution was also on display. Interesting in two manners. It was very brief and also, it was when written, also written in Spanish at the time. And it was on display at the archives. It shows how much our judicial branch has evolved and improved over time. The original California Constitution contains the following under article six. Judicial Department, section one: “The judicial power of this state shall be vested in a supreme court, in district courts, in county courts, and in justices of the peace. The Legislature may also establish such municipal and other inferior courts as may be deemed necessary.” Section two says, “The Supreme Court shall consist of a justice and two associate justices, any two of whom shall constitute a quorum.” So Justice Chin and I would now have a quorum in 1849.

>> [Laughter]

>> Secretary of State Padilla and I also participated in the PPIC, Public Policy Institute of California. And a California Community Foundation conversation on advancing civic engagement in California in Los Angeles, moderated by Mark. Dean Taha of Pepperdine University School of Law interviewed me on behalf of nearly 200 local teachers as part of the 11th annual Constitution Day conference at the Ronald Reagan Presidential Library in Simi Valley. It was another great example of all the organizations willing to work together on improving civic learning in our state. They included the Los Angeles County Office of Education, the Walter and Leonor Annenberg Presidential Learning Center, the constitutional rights foundation, the Center for Civic education, and the program. Also, after having attended a Legal Services Corporation event in Washington, D.C. earlier this year, I was pleased to be able to host and participate in one of their events here in the Supreme Court of California, in our courtroom in San Francisco. LSC Board Chairman John Leavy and law school deans from Stanford, U.C. Davis, and Berkeley also provided context. And I participated in a panel on access to justice issues addressing pro se litigant needs or addressing the justice gap with

Arizona Chief Justice Scott Bales, Hawaii Chief Justice Mark REQ Tynwald, and William Borek. And I reconnected with some former Judicial Council colleagues you all remember fondly: Judge Stephen Baker and, now retired again, Judge Jahr at a Women's Fund of Redding luncheon and the Shasta Bar Association annual bench-bar dinner. I traveled to Oakland to participate in a Q&A session at CELA, the California Employers' Lawyers Association 28th annual employment law conference with nearly 400 attendees. And I was deeply honored to receive the Women Lawyers Association of Los Angeles Award with many of you, for services to the profession. And I had the opportunity to return to Sacramento to celebrate the 50th anniversary of the Los Rios Community College District and received their Distinguished Alumni Award. In Riverside, I joined Senator Richard Roth, Assembly Member Eric Linder, Justice Miller, and Presiding Judge Harold Hopp and others from the Riverside bench. We convened for a legislative summit. It was organized by the Greater Riverside Chambers of Commerce with more than 200 business, government, and community leaders. Obviously the need for new judgeships was a key issue of discussion at the conference. Every year around this time, two key events usually happen for our judicial branch: the California Judges Association and the State Bar of California's annual meetings; I always actively participate in both. So in Anaheim with Justice Chin along with many members of this council, I connected with the Bench-Bar Coalition and our ongoing advocacy efforts. The California Court Commissioners Association, with their Commissioner Chair Jerry Hanlon, and I did a lot of swearing in and I was glad to do it. It's also a great opportunity to recognize and celebrate the work of others over the year. I presented the Ronald George Public Lawyer of the Year Award to Oakland City Attorney Barbara Parker and the Lauren Miller Legal Services Award to Krish Snyder of Central California Legal Services in Fresno. And I participated in the president's pro bono awards and the poor diversity awards. With the California Judges Association, I had my annual Conversation with the Chief moderated by Judges Todd Botke and Gary Payton. I also participated in the CJA education program, moderating a spectacular panel of conversation with legal pioneers Judge Albert Matthews from Los Angeles, Justice John Arguello from the California Supreme Court, and Justice Harry Low from the first DCA. Participated in a panel discussion with Los Angeles Judge David Wesley and San Diego Judge Laura Halperin. This was moderated by Los Angeles Judge Richard Frew and on effective judicial outreach. The need for citizens young and old to understand their democratic institutions was a theme at the Foundation for Democracy and Justice Gala where I spoke along with Attorney General Kamala Harris and Governor Brown. It was a great opportunity to share the importance of civic learning and civic engagement, understanding the judicial branch, and the work that's done here by judges and lawyers for California. This concludes my report to the council. Next we'll hear from Martin Hoshino on his director's report.

>> Thank you, Chief. Members. You have in your packets and materials a written report from me as usual. I will pull out and highlight some things that I think should be highlighted not just for you but also for public awareness. But first, before doing that, I wanted to take a moment on the first-year occasion to thank the Chief Justice. Thank the members of the council for this opportunity to be in this organization. I will resist the temptation to provide an unauthorized annual report of my time here largely because this is our business meeting and we only have

about two hours, and my report would clearly run longer than that. I'll simply say it's been remarkable. It surpassed my expectations. In both directions. Both in terms of the remarkable professional experience that I have had the opportunity to acquire here, and then also with respect to maybe some of the things that weren't exactly in the glossy brochure in the job application that I hired for, but they have been equally terrific, and I'm pleased that there were so many surprises and things I hadn't experienced before professionally. Otherwise, it would have been a dull experience to date. So I hope there are more curveballs and more challenges because it was actually getting someone like me motivated. And again I appreciate the opportunity very much. I also want to thank the staff of the Judicial Council. They have been nothing short of amazing and remarkable. As I continue both out of demand as well as ignorance, to ask every and any question that I think is appropriate, and sometimes maybe not appropriate always, but just challenging them. And they have never blinked, never wavered in rising to these challenges. There's the questions I posed to them. So I'm very grateful for them. Without their support, I don't think myself personally or professionally or anybody would be as successful or accomplish the things that we do without them. And so I want to make sure I publicly give them a nod. Also before getting to the notes, I have been setting a course with the staff very recently. About explaining and making it clear that I believe the Judicial Council set a vision and a course for our organization when it re-upped its strategic plan earlier this year. And that the Chief has been quite clear in articulating her vision for Access 3D. And so my focus as a result of that is to be very crisp about working as hard as I can and as hard as we can to help execute and integrate and maximize every opportunity we have to make sure that the vision and the goals that are articulated in your strategic plan and in the Chief's vision comes to pass and come to fruition and we make it a reality in California. I also want to publicly acknowledge the official announcement of the retirement of Curt Soderlund, our Chief Administrative Officer for many years. And a public servant for many, many years before that. There will be a fuller, I think, celebration of Curt's tenure at the December meeting. I'm not going to do it here now. He's a humble guy, but I'm not going to call him out just yet. We'll save some of that for December. In addition, I wanted to announce that we have successfully recruited a replacement for our Chief Operating officer. If you haven't seen the announcement, her name is Melissa Tidwell, the current Director of Rehabilitation Services at the Department of Correction and Rehabilitation. She was a deputy director for the Department of Alcohol and Drug Programs and some other stuff during her tenure in state service. She's also an attorney. I think we were lucky to get her. What is not in the announcement is something I want to share with you. I do believe that we are getting a seasoned government manager and professional for where it is we are and where it is that we're headed. This is someone who worked in the vast sprawling system that I did in the prison and parole system. This is someone who was one of the lead people implementing the first Proposition 36 throughout California. This is someone that I believe really understands the intersections and integration that is necessary between state level operations whether based in Sacramento or San Francisco anywhere in the state all the way down to local community levels, counties, and how those government pieces and programs have to work together in order to meet the needs of the public. And so I think Melissa Tidwell will represent somebody who understands that perspective and will do an awful lot to advance our goals and objectives. Turning to the report, there are a few specific things I would like to call your attention to. The court statistics report for

all levels of the California courts was actually released in September of this year. And it is the report cataloguing where we were in the year 2013–2014, and has a 10-year caseload trends, data set. First, on the statewide level, and somewhat on the national data level, the total filings for that particular year for California were 7.5 million. This represents an overall decrease of 3% but is actually a smaller decline than the previous two years. This tracks with national trends. Most of the decline occurs in limited jurisdiction cases, misdemeanors and criminal case categories, small claims, and limited civil cases. This is an important distinction. However, the filings in high workload cases in the superior court including felonies, probate, and mental health cases, are actually increasing. This is an important distinction to make. So that even though overall caseloads may be declining, the areas that are increasing are the ones that demand for resources and essentially are a heavier lift for the operations of court services. Some of the specific numbers there are felony filings of 4% in 2013–2014, mental health filings at 9% in probate at 7%, and dependency up 4%. There are also some internal local data sets and information that are available in this report. They are customizable, customized court management reports. These will be made available for each court with a 10-year caseload trend and other basic standards and measures for judicial administration. The reason this is important is this will help court leadership track changes in their caseload, workload, and assess the case processing practices in court and also ultimately help people make decisions about where you will devote limited resources that you have to provide services. The next item I wanted to highlight has been highlighted publicly in many forums but especially to make the new members of the council aware, this is the traffic infraction amnesty program, which was implemented at the beginning of this month of October 11. Following the council's previous approval, the program guidelines for the statewide program, the staff has been working diligently with the courts and other stakeholders including the California State Association and counties as well as the Department of Motor Vehicles on implementing resources and tools in advancement of the lift-off of the program. There have been a number of web-based information sessions that were delivered in September. And representatives from nearly every court and county in the state, which totals more than 500 participants, were involved with this in 60 or so local government and advocacy groups. They were playing a role facilitating this program. A lot of other tools were developed. Frequently-asked questions tool is available for local programs. And there were a lot of sample participation forms that were put out to address various scenarios on how the program would actually work. This generated a significant attention from the public. More than a quarter of a million views of the frequently-asked questions on the California Courts website have occurred since October 1. So that's the volume or dimension of this for folks to be aware of in just the first month. Some other statistics that will help people understand and appreciate the dimension of this effort, the L.A. courts by themselves in the first 21 days or so serving a population of 10 million residents, fielded over 91,000 phone calls, had 39,000 participation forms actually received in their courts, with nearly 9,000 citations addressed. Estimating 14,000 cases for the month of the current trend continuing and for comparison, 14,000 is the total amount L.A. reported for the entire 2012 program, which folks will remember was the first version of amnesty; so, really remarkable activity going on in L.A. superior court. At the other end of the scale, the Shasta superior court, serving a population of just under 180,000, has engaged with roughly 1,000 residents. So, still a rather significant number if you look at the proportionality of

what is occurring across the state of California. The next item to call your attention to is the annual IT disaster recovery exercise. The annual Technology Center disaster recovery exercise has just taken place. This center provides some level of support to all trial courts and appellate courts and I want to thank the managers and staffs of Ventura and San Joaquin, who worked with council staff in the testing that took place over the recent weekends. The other key contributors were the California Department of Justice as well as California Department of Technology. This is the tenth year of the exercise and what this exercise does is helps ensure that vital court services and data and communications can be restored in a designated location, in the event of an unfortunate disaster. The results of this for us are that the council and California courts Technology Center met or exceeded the return time objectives, which is one of the key measures in the industry over the last 10 years when conducting exercises like this. The last thing I wanted to call your attention to which is not in the report was that I had an opportunity to attend the national Court Technology Conference in Minnesota. I was only able to be there for one day but I think it's a four or five day conference. I wanted to get a sense of what was going on not just in the state but nationally. I didn't know what to expect, but what I found and what I want to make you aware of is that there's an incredibly high California turnout that was there at that particular conference. Some of the people in this room and around the table were actually there. It wasn't just that California was participating. I saw members from the Los Angeles superior court. They had five or six folks there: from Fresno, San Bernardino, Sonoma, Napa, Monterey, Orange, and also from the Courts of Appeal. It wasn't just as presenters. By my count, there were over eight sessions where California entities or parties were making presentations or participating in panels about some of the innovations and changes that are occurring in California. So it wasn't just that we were there to pick up and learn. We were actually there as a presence to do these things. And I think it's important for folks to be aware that the California courts system is not sitting still and hasn't been sitting still as it grapples with some of the reductions that occurred and is trying to find ways to deliver and get people access to our court services in the way that they can. And I think it is fantastic to see that California has a strong presence in a forum like that. And it's really a good barometer of the level of interest and the level of activity of our technological innovation in California. It's really so important for our court system and more importantly, for the users of our court services so desperately needing access to additional services, given where we are as a system. With that, Chief, that concludes my report.

>> Thank you, Martin. Next we'll hear from the internal committee chairs with their respective Judicial Council reports and I'll begin with Executive and Planning Committee. Justice Doug Miller.

>> Thank you, Chief. I have just a few brief remarks I'd like to make. My written report will be posted online. For the benefit of our new Judicial Council members and for any newcomers, listening to our audio, one of the primary roles of the Executive and Planning Committee is to set the agenda for each of our meetings as we have done for today's meeting. Executive and Planning Committee also administers the nomination process for vacancies on the Judicial Council and on its many advisory bodies and makes recommendations for appointments to the Chief Justice. This year Executive and Planning did something that had never been done before.

After the nomination process had closed, we reopened and extended that process to ensure that we had a strong list of nominees that could be forwarded to the Chief Justice. Each year as you know the Chief Justice rotates a portion of our members on and off various internal committees and advisory committees, so that we can add fresh and diverse voices even as we maintain consistency and stability. We had over 200, the most we've ever had, over 200 nominations. And the Chief made 84 appointments during this last term. This month we welcome our new Executive and Planning members. I'd like to thank them publicly for taking on a very time-consuming assignment. And for some of them who only recently learned how time-consuming that was during our orientation yesterday. I'd like to thank them publicly in alphabetical order. Our vice-chair, Judge Marla Anderson, Presiding Judge of Monterey Superior Court; Judge Daniel Buckley, Assistant Presiding Judge of the Los Angeles Superior Court; Mr. Rick Feldstein, Court Executive Officer, Napa Superior Court; Judge Samuel Feng, San Francisco Superior Court; Justice Jim Hughes, Division One of the First District Court of Appeals; Mr. Frank McGuire, Supreme Court Clerk; Ms. Donna Melby; Judge Gary Nadler, Sonoma Superior Court; Judge David Rubin, San Diego Superior Court; Charles Wachob, Assistant Presiding Judge of Placer County. Thank you for serving on Executive and Planning. Our staff liaison is Chief of Staff Jody Patel. And we are excellently and ably served by Nancy Carlisle and her excellent staff. So thank you. Thank you to all of you. Finally, for those of you who view the agenda online, you will note a new audiocast link to an online meeting information center. It's excellent. I encourage you to use it. Also, beginning in December, this online platform is also used by the Legislature and will enable the council to videocast its Sacramento meetings. More than four years ago, the Chief Justice and the council increased efforts to make our meetings more transparent. Video casting our meetings is a part of that effort but by no means the end. We continue to work in that regard. Online audiocasts and videocasts are excellent and will provide a greater ability to view what goes on here. So Chief, that concludes my report and thank you.

>> Thank you, Justice Miller. Next we'll hear the report from Policy Coordination and Liaison Committee, Judge Kenneth K. So.

>> Thank you, Chief. First I'd like to welcome our new policy committee members: Judge Back, Judge Feng, Justice Humes, Judge Stout, Judge Wachob, Ms. Flener, Ms. Kelly, Ms. Melby, and, I'd like to welcome back Mark Bonino and Judge Gary Nadler. Our committee has met three times and has taken action by e-mail twice on behalf of the Judicial Council on nine separate pieces of legislation since our last report. The complete report is online. I'd like to highlight a few of the items that we've taken action on. On August 27, we put it to support the administration proposal for modernizing the ground water adjudication process and to support position on AB 804, dealing with continued education requirements for certified shorthand reporters. We also convened by e-mail on September 8 and 21 and voted to oppose AB 691 relating to privacy expectations after and choices act, and authorized submitting a letter to the Congressional Committee on Transportation regarding the courthouse renovations in Los Angeles County. Yesterday's meeting was for the committee and it was an in-person meeting where we provided an orientation for the new committee members on the operations of the policy committee. And recommendations for Judicial Council-sponsored legislation were also



heard. Those will be presented to the full council at its December meeting. At yesterday's policy committee meeting, we considered recommendations for the council's key legislative priorities for the 2016 session. All of which were continuing legislative priority items related to securing reliable funding in the budget. Continuing advocacy for judicial branch operational efficiency, cost savings, and cost recovery measures, as well as addressing concerns raised in the Governor's veto message of the judgeship bill, SB 229, for funding new judgeships and advocating for a three-branch solution to ensure fairness and efficiency for the California penalty assessment structure. In addition, the committee reviewed five proposals for Judicial Council-sponsored legislation that came up through the advisory committee process and public comment. Three of these proposals will be presented to the council for sponsorship at the December meeting. This legislative year the Governor signed 808 regular session bills and vetoed 133 bills. The vast majority of council-sponsored proposals were enacted this year, with one bill, Senate Bill 229, being vetoed. As mentioned earlier this will continue as a priority in 2016. The Legislature will reconvene in early January for the second year of the 2015–2016, two-year session. Chief, that concludes my report.

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

>> Good morning. I want to report, my report is relatively brief. The Rules and Projects Committee has met three times by telephone since the August 21 Judicial Council meeting. RUPRO met by telephone on September 8 and September 14 to review 31 proposals for new and amended rules and forms that circulated during the spring public comment cycle. We won't be discussing proposals today because all of them, at least until recently, all of them were on the consent agenda, one has been withdrawn, and I'll address that internally. But I did want to summarize the work done by advisory committee members and staff on behalf of the council to improve the administration of justice. The 11 Judicial Council advisory committees from the Appellate Advisory Committee to the Tribal Court–State Court Forum were involved in developing recommending these proposals. Some of the subjects addressed are extending the optional suspension of case management rules to decrease time spent on court staff and judicial officers, reducing the amount of unnecessary facts and evidence presented in summary judgment separate statements, allowing appearances in nontraffic infraction cases without deposit answer concerns, making effective findings of special juvenile status in proceedings, modernizing the rules of court to facilitate e-filing and service. Many of these proposals by my count, 14, are needed to comply with or implement reasonable exclusion. Others were requested by courts or identified by advisory committee members to clarify or streamline procedures, reduce costs, bring efficiencies, and assist users in navigating the court system. RUPRO recommends approval of proposals with one exception that I will address momentarily: Items A1 through A8 and A10 through 32 on the consent agenda. RUPRO also met by telephone on October 22 to consider a proposal to adopt and revise gun violence restraining order forms. It appears on your agenda, consent item A9. What has occurred is obviously when we send all of these matters out by way of invitation to comment, we want to make sure we consider all the comments we received. As you know we agree with some, in part with some, and disagree with others, and it came to our

attention late last week that of a number of comments that were made regarding these particular restraining orders, the National Rifle Association notified us that according to their review of the report, I believe two of their comments had not been addressed. Obviously we solicited comments because we want to consider all of the comments made by all interested parties. And fully factor them into our decisionmaking process. And so it was decided earlier this week to remove item A9 from the consent agenda so that we can adequately consider and address all comments that were made concerning this proposal. Justice Miller as chair, removed item A9, and it will be returned to RUPRO in the Civil and Small Claims Advisory for further consideration. I should note that RUPRO and I would like to welcome our new members as my other internal chairs have done. Dalila Lyons and Eric Taylor, of the Superior Court of Los Angeles County; Mr. Jake Chatters, court executive officer, Superior Court of Placer County; Ms. Kimberly Flener, Superior Court of Butte County, court executive officer; Mr. Patrick Kelly; and returning to RUPRO, after one year away, she couldn't stand not being part of our group, Judge Emilie Elias of the Superior Court of Los Angeles County. I think we have a very strong committee, Chief, this year and we look forward to continuing to work on those projects the committee has undertaken [Indiscernible -- background noise].

>> Thank you, Justice Hull. And we now welcome Presiding Judge Marsha Slough to her new and important role as chair of JCTC, our technology committee, delivering her first report.

>> Thank you. Good morning, Chief and members. It's an honor to present my first report as chair of the Judicial Council Technology Committee. I'll say that I have spent this first month in this role diving into the judicial branch technology pool which I learned is as deep as it is wide. During this time I have been attempting to orient myself not only to JCTC, but have also committed myself to learning more about judicial technology concerns. I've reached out to as many branch technology stakeholders as I can so that I can understand better their needs. I have met with Judicial Council staff. I have met with all levels at the courts, the trial, the appellate, and the Supreme Court as well as other branch stakeholders. Last week I along with the other chairs presented at the PJ CEO training in San Jose. Thank you for arranging the opportunity for me to speak with the Administrative Appellate Justice Advisory Committee. We have to all be able to communicate with each other as we move towards paperless systems. We need to communicate well and efficiently. We can't do that unless we know what each other's needs are. I also will be presenting to the Information Technology Advisory Committee this coming Friday. Finally I have eavesdropped on a number of phone calls including four records and have been working well together with staff as it relates to moving off of the case management system. They are working towards a proposed budget change proposal to help them in that transition. I have also listened to the four work streams that are sponsored by the Information Technology Advisory Committee. You all will be learning more about the good work of these committees at future meetings. What I've quickly learned, Chief and members, is that there is a tremendous amount of good work being done by the CEOs, by the CIOs, by the courts, as well as Judicial Council technology staff working together to address our common concerns. Yesterday, JCTC held an orientation. We as a committee reviewed the issues that we will be tackling in the upcoming year including the deficit to the Improvement and Modernization fund, which funds

many of the technology initiatives. We also addressed the issue of the Judicial Council directives from April 2014 and 2015 related to those courts that do remain on the P3 and case management system. Further, proud to report that our committee, JCTC, is committed along with the Trial Court Budget Advisory Committee to continue to work closely together in unison on issues of common concern. Although much has been accomplished since this committee was established in 2012 and under the great leadership of Judge Herman, there are many issues that we must continue to address. Really, that's the nature of technology. Technology is forward thinking and forward moving. And we have no time to remain mired in the past. I think Justice Chin stated it best yesterday during our meeting. We have to move and we have to move forward now. We will do so as a committee with a solid plan, which will be consistent with the policies as determined by this body. The JCTC will need to continue to meet regularly and work efficiently to address our needs. I'm looking forward to serving as the chair and grateful to the commitment of the other members of this committee, the vice chair, Judge Buckley of Los Angeles, Justice Chin with his vast experience and leadership on judicial technology issues, Judge Nadler from Sonoma County, Commissioner Gunn of Butte, they'll bring great experience to this community. Also Rick Feldstein and Jake Chatters of Placer County, they both, sorry, didn't mean to lump you guys in the same county, they bring their vast experience as CEOs. Further we also have Ms. Deborah Pole and Mr. Mark Bonino as members who will keep us informed and apprised as to the needs of the bar, because if we don't meet those needs in the forefront, we will miss core customers. We will work together to improve judicial branch technology, not only as a committee together, but with the other advisory committees as well as the executive and legislative branches to move forward. What I've learned is that technology is truly a core infrastructure to help provide efficiencies within our courts for all of us and most importantly to Californians. Thank you, Chief.

>> Thank you, Presiding Judge Slough. I take comfort that like Judge Herman, now presiding in Santa Barbara, you also rely on your [Indiscernible] to give a report. We've picked the right person.

>> [Laughter]

>> Thank you. I now invite Presiding Judge McCabe to deliver a council member liaison report.

>> Thank you, Chief. Good morning. This is the liaison report for the visit to the Superior Court of Madera County on August 14, 2015. Madera County is located in the geographic center of California. It was formed in a special election in 1893 from the southern part of Mariposa County. Current population is 154,000-plus people. Madera is the Spanish word for wood. Madera County encompasses both the flatlands of the Central Valley and the mountainous range of the Sierra Nevada. This is a picture of the downtown area of Madera. A picture of the Fresno Dome up in the hills. And then finally, Bass Lake. Presiding Judge is Ernie Michalski. The CEO is Bonnie Thomas. Madera court presently consists of nine judges and one subordinate judicial officer and commissioner with one vacancy. It has one authorized position under AB 159 which has yet to be funded or filled. Fiscally, Madera has an authorized budget of \$6.7 million. The

fund balance is approximately \$1.2 million: \$86,000 in reserve, \$893,000 in restricted. And \$305,000 in committed. Madera was one of the severely underfunded courts that received SHL monies in fiscal years 2005–2006 through 2007–2008 before SAO payments were discontinued. It is a court that benefits from the application of the WAFM formula. Staffing has been relatively maintained. The Schedule 7A filled positions in FY 2010–2011 were 102 compared to the current 97. The caseload for the court in FY 2013–2014 was 27,000 total filings averaging 2,900 cases per judicial officer with a total of 26,000 dispositions. The court system consists of facilities located in the city of Madera, and Bass Lake. The Madera Courthouse in the city of Madera for the last half-century has been this county-owned facility. It experienced two fires in the last several years which caused significant damage to the facility. The court had outgrown the facility and compensated by use of portables. Use of portable trailers were in a compacted configuration which have interconnecting twists and turns resembling the Halloween house maze. The outward appearance from certain vantage points is more of a prison van court. Secure staff hallways by judges chambers were anything but, being traversed by jurors, in-custody defendants, and the like. This is a picture of the courtroom that was used in the courthouse. Traditional darker wood, small room size and well, exclusively lit by a direct artificial lighting was the norm. Furnishings in the jury assembly room consists of these plastic lawn chairs. Storage rooms not seen in these slides were converted into office space. This is an example of how every available square foot of space had been used by the administration and staff. But fear not. Thankfully, there was hope for Madera court. Through persistence, visionary leadership, and a little good fortune, a new, five-story, four above, one below ground, 10-courtroom courthouse was constructed at a cost of \$100 million. The facility is one befitting state government, the judicial branch, the County of Madera, and its people. Great pain went into the design and construction of the facility. Madera County consumes a portion of Yosemite National Park and it was important that indigenous materials were carefully incorporated into the structure. The result was with stunning effect. Granite and wood from Yosemite were used. The design has tinted glass in the center of the structure, and in the evening, when lit, and carefully observed from the front, it resembles that of an illuminated waterfall over a majestic granite formation. The courthouse has a sturdy appearance and feel. This last photo of the front of the new courthouse also captures the peak of the circa-1901 historic courthouse, which is now a museum. The interior is no less impressive. It has a natural look, both a natural elegance but functional utility for its staff and public users. Ample, durable wood is seen throughout the complex. Courtrooms benefit from both exterior direct light and interior indirect lighting. Modern technology is built in and incorporated throughout the facility for the ease and convenience of the court. The courthouse is safe, secure, and functional. The design and construction is sturdy and durable. Undoubtedly, this courthouse will be used decades into the future. This last photo shows the rooftops of the three courthouses used in Madera over the last century. The closest is the recently vacated, county-owned courthouse. Next is the historic 1901 facility and its peak. Finally, the furthest in the background, is the new courthouse. The Madera court is appreciative of the invaluable assistance it receives from the Judicial Council staff. Morale is high with the staff. The administration maintains strong relations with its justice and work partners. The citizens of Madera continue to be well served and are proud of the modern courthouse as witnessed at the

largely attended grand opening on August 14, 2015. This concludes my presentation. A copy of this written report script has been lodged with the council. Thank you.

>> Thank you, Judge McCabe. Thank you. I turn it over now to Justice Miller for public comment.

>> Thank you, Chief. And we appreciate and welcome those of you who weren't here for public comment on general administration of justice. I want to caution you as I always do that we are not an adjudicatory body. We can't make decisions on your individual cases and we ask again that you limit your comments to general administration of justice issues. And that you refrain from talking about individual cases. We have a number of people. The time limit is three minutes. As I call your name, please come to the podium and then I will call a second person and if you could then stand just behind the podium to be ready to begin your public comment. The first I have is Roberta Fitzpatrick. Again, please remember, three minutes. I'll give you an update at two minutes. Good morning and welcome. And thank you.

>> Good morning. Chief Justice and members of the council, thank you for allowing me to speak. I am Roberta Fitzpatrick from San Jose. A revered historical figure once said, you will know the truth and the truth will make you free. Most of us value truthfulness in persons, in businesses, and in our government. What is truth? One dictionary defines truth as a verified fact. It is true that the 14th amendment guarantees each person within the jurisdiction of a state equal protection under the laws. It is true that section 3020 of the Family Code declares that the health, safety, and welfare of children shall be the court's primary concern in determining custody. It is also a fact that can be verified that the policies of the Judicial Council expressed in many of the statutes that follow 3020 pull a bait and switch and withdraw any assurance of protection for our children. For example, the word may in Family Code 3027 gives judges the legal permission to withhold protection even from a child abuse victim. That irresponsible permission has resulted in the suffering, abuse, and murder of several children, including my great niece, Alicia, 10 years ago, this November 22. A judge effectively signed her death warrant when he knowingly sent her to live in danger. Surely, you don't think that children should be less safe in court than they are in a classroom, a school bus, or a locker room. In 2012, Judge Michael Nash wrote this to me. I agree that our laws and our legal practices should always prioritize the protection of children. The current Family Code does not protect our children. Please do better. Thank you.

>> Thank you. Catherine Rafa? And then Connie Valentine next? Catherine Rafa. Good morning and welcome.

>> Thank you, Chief and members of the Judicial Council, my name is Catherine Campbell-Rafa. I'm a resident of Santa Clara. Thank you for allowing me to help you be the eyes and ears of what is happening in the court because we don't have cameras there right now. But that could change, I hear. Over three years ago, I lost custody of my two children. I left my husband who was the named abuser. I have to watch my children spiral down in every way. And yet we know a child who is sexually abused will fall. We know but not yet can we stomach the situation. Why

are we blaming mothers in most cases instead of following the law to protect children? A cottage industry that was supposed to help children instead also decided to see no evil, speak no evil. I lost all my money and went into debt. Our family has spent around \$2 million already. I could not afford an attorney any longer and had to pay to see my children six hours with supervised visits. Evidence was ignored by judges in our trial when they stated to the judge that abuse might have happened; they don't feel safe with their father. And I was actually stated to be delusional even though my evaluator said I was not. The judge did not weigh the facts. It was easier to like a man with a Harvard MBA and Stanford master's and someone who has now paid over a million dollars to his lawyer than to think this man had sexually abused his children. Since a year ago, CPS has had a report that the children stated the sexual abuse by their father, and they are afraid for their lives and they sleep with weapons. Based on the court's lack of following family court laws, the county lawyer for CPS just recommended the children were assigned a lawyer for the court had jurisdiction. I presented the CPS situation to the court and it was denied. It was denied not pending a hearing, just denied. I was recently actually just named a litigant because there is the CPS case no one wants to look at. He stated I was vexatious only because the abuse was proven to be untrue. This has never been proven to be untrue. Evidence is becoming more real. Chief and members of this council, finding false evidence by the court to remove the blindfold from Lady Justice's eyes and hide the evidence that is to be weighed, and tie the hands of the newer judges to protect the previous judges from their mistake is a crime to humanity. While our children have been threatened to be silenced and were still denied rights, we need to stand together and acknowledge mistakes have been made. We are all human and we need to right these wrongs. Let us not destroy our nation's children, our future, for we are also fearful to look at abuse. Thank you.

>> Thank you. Connie Valentine? Good morning and welcome.

>> I'm Connie Valentine from California Protective Parents Association. Thank you, members of the council for having us here. It's also been a year since we've been coming to you with the family court problems. The good news is that our organization has received slightly fewer calls. The bad news is that our organization receives much more egregious calls now. From parents who are trying to protect their children. We urge you to have a written statement of policy that child safety is the first and highest priority in any decision made in family court, that the children are able to state their preferences directly to the judge, instead of the mediators, that you provide the public with the data that you collected now on custody outcomes under Family Code 1850, and that you support legislation to require court reporters in domestic violence situations. I'd like to give you just a short rundown of one of the cases that's very public right now. Nicholas Elizondo is a registered sex offender who was put in prison in California for six years for raping his 6-year-old daughter. He is on Megan's list. He had a second daughter. When she became six years old, he went to Oklahoma and got custody of her. Californians rationalized that Oklahoma courts were backwards. Then Nicholas Elizondo and his daughter moved to Bakersfield, California. Their mother thought California would protect the child. She was wrong. Judge James Compton has repeatedly continued the case. Court-appointed attorney Stephanie Childers advocates for the status quo, living with a man the mother saw in bed with her child. The

mother's frantic. Her pro bono attorney is not used to seeing such cases and is shocked. So are we. This case is happening on your watch. This child's sanity is in your hands. We ask that you investigate this one. This is really quite an egregious case. Only a small percentage of cases go like this. Most of family court goes just fine. It is not a problem. This is maybe 10–15% of the cases and only a very small percentage go to crime but they are giving the judiciary a black eye and this mirrors the black eye given to the victims of domestic violence who are losing custody to batterers and pedophiles. You can fix this. Thank you for doing it.

>> Thank you. Next is Eve Sutton. And if I could have Ralph Kanz approach next?

>> My name is Eve Sutton. I'm very sorry about the child abuse cases. I wish I could speak more positively about the system statewide regarding foreclosures and evictions, but unfortunately it is a statewide problem as well. Our biggest financial collapse, the one in 2008, didn't happen by accident. It was designed and it happened county by county, court by court, judge by judge. There's no point of signing documents unless you know there's a judge somewhere who will ignore the illegality of those documents. We know those documents were produced by the thousands. I myself have a document that was signed supposedly with rubber stamps that has a notary from Texas for a signing in Santa Ana, California, and somehow Wells Fargo thought that would be just fine because Wells Fargo could always count on a corrupt judge to say it's just fine. Unfortunately, that's what's happening in my case in San Mateo County. But San Mateo County is not the exception. Unfortunately, it's the rule. And that corrupt judge at the trial level was not the exception and the corrupt judges at the Appellate Division were not the exception. People warned me in advance that I couldn't expect justice from the judges. And that's why it was so hard to find a lawyer. Lawyers are so discouraged because so many judges look the other way and say they didn't see anything. Of course they didn't, their eyes were closed. So I'd like you to turn your attention at some point to the comparison of spending \$100 million for a beautiful new courthouse, which was gorgeous and I applaud it, it's fantastic, how much would it cost by comparison to have honest judges in those courthouses? What would it cost? What would it take? What would we have to do? I have 200 people listening to these comments because I told them ahead of time by e-mail that I would be speaking. And I have several other people on my e-mail list and I have my website, mortmelt.com. I started that some years ago to talk about the mortgage meltdown and actually to make a musical to educate the public. But knowing about the problem is not the same as avoiding the problem. When the problem came to hit me, even though I was prepared as anyone could be, I still faced those corrupt judges who didn't see anything wrong. Now I'm facing an unlawful detainer which means I'm being kicked out of my house by somebody who doesn't have legal right to own the house. And that can happen to just about anybody. I would like to have some kind of advisory committee with regular citizens on it. Please let me know how we can make that happen so we can actually get some justice into the system. Thank you.

>> Ralph Kanz? And Kathleen Russell next, please. Good morning and welcome.

>> Good morning. Members of the council, thank you for your time. My name is Ralph Kanz from Oakland. My first thing, I looked at item H on your agenda regarding fair and efficient administration of justice. I went through that report. The issue was clear and jumped straight out. And what jumped out in that analysis was that it seemed, it was easy to infer from what is in that report that clearance rates were more important than deciding cases on their merits and the justice of an issue. And one thing that would help with that is if that report in fact had some additional data. When you clear a case in limited civil as an example, was it done by demurrer? Having been through that experience of losing a case when you know the judge's rulings are wrong and they don't address all the issues you've raised, you realize there are a lot of people out there who have gone through that same thing. That they never get to the merits because the demurrer process in the state is completely out of control, and I think you know how much time you have to expend on the process rather than actually working on the merits of a case. And that brings me back to the other process which is as a pro per litigant, as I heard the Chief Justice mentioned earlier, there's always the concern of having a fair process for all parties whether they are represented or not. I think it's time for this council to acknowledge it isn't fair when a pro per goes up against a major law firm representing a big corporation. It isn't fair. So rather than pretending it's fair, say it isn't and try to do something to balance the scales of justice. I can tell you, I'm involved right now in a case. The opponent is a major law firm for a major corporation. And the first thing in their demurrer memorandum is pointing out the status of the plaintiffs as pro per litigants. Why would that be the first point of argument in a memorandum on a demurrer? If it's truly weighted evenly, there would be no mention of that. It's mentioned because they're not members of the club, therefore you should ignore their legal arguments, no matter how correct or right they are. It doesn't matter that they spent the time to do the research and get it right. I'm a member of the club as an attorney, working for a big law firm. You as the judge are a member of the club, therefore our arguments make sense and these self-represented parties do not.

>> Time. Thank you very much.

>> Kathleen Russell and Barbara Ness. Good morning. Welcome.

>> Good morning, Justice Miller, members of the council. My name is Kathleen Russell. I'm the executive director of the Center for Judicial Excellence. I'm going to be targeting my remarks today to the new members of the council. Welcome. And for those who are new to the Center for Judicial Excellence, this is our one-year anniversary today, of attending every Judicial Council meeting that has had public comment in the last year. And we are here to raise awareness about the crisis in the family court system and to also urge you for more judicial accountability. Director Hoshino, I heard your comment today talking about how you love curveballs in your job and how it helps you tackle challenges. That those are exciting. Well, look no further than the family court crisis for the largest curveball that I think this Judicial Council and the whole branch has on its hands to deal with. And it's not going away. It's only getting worse. Despite what my colleague Connie Valentine said about a decrease in cases to her organization. We've seen an increase in phone calls and e-mails to ours. For members who are new to the committee, Center



for Judicial Excellence is an advocacy organization working for increased judicial accountability across all courts, and to expose and fix the family court crisis in California and beyond. We'll be celebrating 10 years this next April. We've worked with a variety of state legislators over the years to shine a light and try to get a handle on the family court crisis. Senator Leno worked with us to push the audit of the family courts back in 2009–2010. We worked with Assembly Woman Fiona Ma on AB 1050 giving children a voice in family courts which is now Family Code section 3042, which has helped some children. This past year we worked with Senator Bob Witkowski to help to rein in custody evaluators who are routinely across the state not following the law when doing their reports. And we're going to be back in 2016 with the new set of bills, to work to continue to try to protect children in the family courts. If you wonder what these T-shirts are about, stop court crimes, what is happening in the family courts is criminal. Children are essentially being trafficked by court order to their abusive parents. It's a top priority for the FBI to deal with human trafficking. You all need to make this a top priority for this body to deal with child trafficking in the family court system. Children are being killed, they're being put into lifetimes of abuse, they're being stripped from their safe parents. Thank you.

>> Thank you.

>> Barbara Ness and then Leslie Hagan is next. Good morning. And welcome.

>> Good morning. I can't say anything better than the ladies that just spoke before me. I don't understand why courts are not being held accountable when they make orders and the CPS makes untrue stories, basically, about removing children from their homes. I am not a great public speaker. So I just have a couple of questions. I want to know why retired judges are not held accountable. And you can't, you are unable to challenge them for their misdeeds. My daughter had her daughter taken away by CPS. And the judge told her that she would have her daughter for Christmas, Easter, Thanksgiving, and school holidays. That was almost five years ago. Currently, we've seen my granddaughter twice. In five years. Under supervised visitation. I would like to see cameras and recordings of CPS workers as they are interviewing and basically setting up a lot of people. I'm tired of pedophiles being able to take their children, because as the lady stated before, they have an NBA. I can't say anything better than the four ladies that were before me. It's to me, about CPS, it's about the injustice and the accountability of particularly, Placer County, California. Thank you.

>> Thank you. Leslie Hagan and Steve Burdo? If you would approach next? Good morning and welcome.

>> Hi. I would like to address issues at Santa Clara County court system. We have a big problem with self-representing people. Judges ignoring totally their evidence. They shut them down. They do not let them talk. And I've been audited a dozen cases. As a child, also a family a PJ judges, most of the time, let's say 90%, the judges ignore, absolutely, evidence that self-represented would like to present. And always most of the cases, over a dozen, were ruled almost 100%, only two cases the judges was kind of like give a little bit of leeway to suffer presented, but most of

the time, they rule in favor of the attorneys. We are asking that the judges be fair and that they actually listen to the self-represented. Like me, I'm in court already 8.5 years. And I'm, most of the time I've exhausted all the resources. I cannot afford attorneys at all. To be an attorney myself, it's a huge task that I have to learn. But also I have to work and I have to do other jobs. So I cannot be an attorney. I cannot advocate like an attorney can advocate for myself. But even with my best efforts, the judge ignored everything that I would say. Thank you.

>> Thank you. Steve Burdo. And if Wanda Harrison could approach? Good morning and welcome.

>> Thank you, Chief Justice, members of the council, for hearing me today. I'm going to be fairly brief, but I am a staff consultant with the Center for Judicial Excellence. I focus on the policy work we do. I think you could hear a theme here from a lot of people who've spoken. A lot of it has to do with accountability. And as somebody who monitors the Legislature, monitors the courts, you know, I realize that every budget cycle, the courts are asking for more money. I think one area where our organization and you could join hands on this and asking for more money is to put more money into the Commission on Judicial Performance. I think that's the accountability body of the California judiciary. And I think that would be money well spent if we put some additional resources into there. In the past, I have spoken about the policies that Kathleen mentioned that we've worked on. Working with legislators. We were happy this past cycle on SB 594 to work with Alan Hirschfeld and your Office of Legislative Affairs to discuss SB 594 and what it would do ultimately. The Judicial Council remained neutral on that but we had a number of good discussions and we plan for the upcoming legislative cycle to meet with Cory, and Alan, and everybody on your legislative affairs team again. We hope we could find common ground on a number of policies that are going to help to strengthen the family court system. Other than that, I bid you all good day.

>> Thank you.

>> Wanda Harrison and Fatima [Indiscernible] I'm sorry. Your next. Good morning.

>> Good morning, council members, Chief Justice. My name is Wanda Harrison from the County of San Joaquin. I'm here to talk to you guys about the need for judicial accountability in an overall, all over California. This isn't just an isolated incident, which happened quite frequently in my county. I've had judges dismiss things like child medical reports from doctors, Kaiser doctors, that state the diagnosis is child abuse. The judge didn't even look at it. Didn't even look at it. Yes. I've heard that. Do you have anything else? It's a doctor's report. You know, I mean, that's serious business. What more could you bring? However, on the other side, we have things that the opposite party's attorney have brought in that have no in-person witness to back up any statements that were made and I have not seen my son in a year and a half. And my son now lives with his accused abuser. These are the types of things that need to change. There should be accountability. No agency should operate without accountability. Judges operate without accountability. It's not fair. We get bullied as pro per litigants. Mothers are caught in a

Catch-22 where if we tell about abuse, then we are accused of parental alienation. If we don't, we lose our child because we didn't help or protect them. It's unfair. It's unreal. And it's not right. The last part of this is objections. Why is it an attorney can make an objection inside of court but a pro per litigants has to write it out and file it before they get anything done? Otherwise we're accused of not making an objection formally? Finally, one more thing. I almost forgot. The court reporters, since we have none in family court, I think the videotape and audiotape, some sort of accountability would be needed. You know, it's not that hard. Not that expensive. I'm willing to pay to get a copy of my hearing just for judicial accountability reasons and note taking purposes. I think it's fair. Thank you.

>> Thank you. Fatima?

>> I'm from Sacramento County. I would like to say that there cannot be any accountability or judicial accountability until SPX 211 is repealed. That had immune superior court judges for taking legal bribes and were retroactively immune from prosecution. My issue today is currently, I have two teenage daughters who are in juvenile dependency hearing or in foster care. They were out-of-control teenagers, which stemmed from a family court commissioner who lacked jurisdiction and child support hearing, and who gave custody to my ex-husband. I filed numerous complaints with California Commission on Judicial Performance. Nothing has been done. He's been shifted now to the mental health department in Sacramento courts. And there's no accountability. Until SPX 211 is repealed. Currently, like I said, my children are in juvenile dependency. In foster care. My other daughter had AWOL. Court proceedings to put in the juvenile dependency proceedings. The court appointed attorney, she told me in my face that they don't file objections in this court. And lastly, recently back in July, I filed a motion to avoid an order based on the lack of jurisdiction for court commissioner sitting on title IV-D who adjudicated a custody proceeding. Of course I was denied access to the courts and I'm an indigent down to my last nickel, and until recently, I did receive a court hearing which would be November 16 to challenge those orders. And so basically, I filed a complaint again, with the court executive officer, nothing was done. So like I said again, there would not be accountability until SPX 211 is repealed. Thank you very much.

>> Thank you. That completes public comment.

>> Thank you. I appreciate everyone who spoke to council today. We're going to stand in a 15 minute recess. It's approximately 11:05. We will reconvene at 11:20.

>> [Break. Meeting will reconvene at 11:20.]

>> Please stay tuned for the Judicial Council's live audio broadcast beginning shortly.

>> Everyone, please take your seats so we can begin a new item on our agenda.

>> Welcome back. The meeting is now in session. And next we have our consent agenda. As you know, Executive and Planning places items on the consent agenda in consideration of Judicial Council meeting time and to ensure that the work of the council and its many advisory committees are as efficient as possible in setting policy and implementing solutions. An item being placed on the consent agenda in no way reflects the significance or lack thereof of a proposal. And prior to the meeting, any council member may request that an item on the consent agenda may be removed to the discussion agenda or removed for further discussion or further information, as you heard today with what happened with item A9 on the Judicial Council form on gun violence restraining orders. We'll see that again at some point after it's further developed in response to the comments. As you heard in Justice Hull's report, we have approximately 40 items on today's consent agenda. It ranges from revisions to rules and forms for appellate procedure. Civil, small claims, criminal law, family and juvenile law, probate, mental health, equal access fund grants, juvenile dependency allocations, and various mandated reports to the Legislature. As you can imagine and many of you know, we thank all the committee members who supported and vetted and proposed these items that are now on the consent agenda. We've spent many hours working on these reports and gathering the data and doing the research and we thank them for this work. So I ask you to please look at the agenda items. And it goes up from A1 up through item K. And I ask for a motion to move the consent agenda.

>> So moved.

>> Second.

>> Judge So moved, seconded by Judge Rubin. Hearing no discussion, all in favor of moving the consent agenda items, please say aye. Any opposed? Any abstentions? All matters are approved. Because we are ahead of our meeting time, I advise you now that we'll be taking the next agenda items out of order. So for your information we're going to hear N first. Then M. And lastly, L. So item N is the realignment of the state trial court improvement and modernization fund expenditures. This is an action item and we welcome Zlatko Theodorovic and Justice Miller.

>> Thank you, Chief. First, I do need to correct the agenda. It doesn't say action item but if you read the actual report, it is an informational item. This was heard originally at our April 17, 2015 Judicial Council meeting. At that meeting the council approved a consideration of shifting certain costs away from the state Trial Court Improvement and Modernization Fund, the IMF. Beginning in budget year 2016–2017, this issue was important and raised by the Trial Court Budget Advisory Committee as part of their review of the IMF programs. As part of this consideration, Judicial Council staff had been assigned the task to find ways to mitigate deficit. So that has been the process they have started. We had asked of them in April to report back to us at our October Council meeting and they are going to do that. However, what we're asking today is that you understand they have not completed that task, so as chair of E&P, I have asked Jody Patel and Zlatko that they make regular reports back to E&P before the February meeting, so that we can keep attuned as to what's going on in that regard and make sure that it's moving along and decide when it should come back to the council for an action item on any of these

matters, or whether it should be assigned to any of the committees for review. So with that, I'm going to turn it over to Zlatko to explain what they have been doing and what their plan is.

>> Thank you, Justice Miller. Members of the council, I want to put into context where we are, especially for the new members, the issue of the improvement monetization fund. It is one of the important funds that provides resources that fund many important programs that benefit the trial courts. But it has been used to help offset budget reductions, for example over the last five years, for \$100 million, has been moved from the improvement modernization funds to trial court operations. Which has helped bring down the fund balance. Revenues to the fund, just like our Trial Court Trust Fund, have also declined. In 2011–2012, we were getting \$52 million revenue, now we're down to about 33, almost a \$20 million annual reduction in revenues. We've also moved costs for certain trial court operations, programs such as Phoenix, to the tune of about \$30 million, used to be borne by the trial court. There's been a lot of pressure put on the fund. Pressure continues because there are important programs that are funded from the IMF and only limited resources. So as part of the review that the Budget Advisory Committee brought to the council was, are there other alternatives created to look and see if we can manage the funds? So there were a few issues they wanted us to come back to the council on. There were some programs they were interested in seeing whether or not we could move into a fee-for-service or cost recovery model. They wanted to see if the Judicial Council budget could absorb almost \$3 million of costs that are currently funded out of the IMF and if any costs could be shifted from IMF to the Trial Court Trust Fund related to interpreter issues. So the report we're providing back to you is an assessment of the appropriateness and ability of any of those options to be pursued. So it's important to understand that there's an intersection between this work and the work that Jody and the council are working on in terms of responses to the auditors, and recommendations regarding surveying our branch to determine what services the Judicial Council staff should be providing. And in what form or fashion that arrangement works. So in terms of fee-for-service issues, as you know over the next 17–18 months, there will be a survey. Many of you have been contacted in some form or fashion regarding determining what are the services that Judicial Council staff should provide? So in terms of coming to a conclusion regarding what should be potential fee-for-service or cost of recovery or what services should be provided is premature to determine to what extent we should change our relationship in terms of services and costs in funding. Absolutely aligned with that, what does the Judicial Council budget buy? In terms of any costs that can be moved from the Improvement and Modernization Fund into the Judicial Council budget, that's based on what do you want the council staff to do? So until we know what the services are, whether there's room to absorb those costs, as I said to others, our budget is \$135 million. Do you want \$130 million of expenses from us or 140? Until we know where that is, we can't commit resources to take on these programs. Until that analysis has been completed. So that's an important aspect of the overall effort over the next year and a half. So what we think is that this process should continue. Once that work is done, we can reassess whether or not there is room within the council budget to address any of these costs, to what extent there's any changes in the relationship as far as cost recovery, fee-for-service, those sorts of things. But in the meantime, any of the costs that have been identified as part of this report will still go to the Trial Budget Advisory Committee in deliberations on how to manage

the Improvement and Modernization Fund for 2016–2017. So they will still be in the mix and evaluated against the available resources that are in the IMF for the budget year.

>> And E&P will ensure that this information is brought back to us on a regular basis before each of the council meetings for updates. And if there's a need for us to provide information, we can also [Indiscernible]

>> Thank you. I don't see any hands raised. I know we'll see this again and we'll have more detail and more information. I thank you for the update, Zlatko and Justice Miller.

>> I to M, the trust fund allocations, 2% reserve. This is an action item. It's been revised. We welcome Presiding Judge Brian McCabe and also Zlatko Theodorovic, and I believe joining us on the phone, perhaps, or ...

>> No. I'll begin to explain that.

>> Thank you very much.

>> I'm Brian McCabe, cochair of the 2% fund committee which is a subcommittee of the Trial Court Judges Advisory Committee. As you may recall, in June of 2012, the Governor signed legislation that repealed certain provision of the Government Code relating to funding for urgent needs and then added to that Government Code, a requirement that the Judicial Council set aside a reserve in an amount equal to 2 percent of the Trial Court Trust Fund appropriations and Program 45.10. Following that, the council in August of 2012 approved policies with regards to the process, criteria required information for requesting monies from those emergency funds. And then those include that applications can be made on October 1, that the council may allocate no more than 75% by the 31st, which it already has done. There were two applications. However, only one is proceeding today. First, Tama had an application in. There is no information that has come to light after the 2 percent committee had met. They had been very responsive in providing documentation and information to Judicial Council staff, who has worked with them. However, there's some follow-up questions from that. In addition, the 2 percent committee did not have the benefit of this documentation and desires to deal with that. So based on discussions I had with their presiding judge, and their CEO yesterday, they were agreeable to this matter being deferred to the December Judicial Council meeting. If we refer back to the 2 percent for reconsideration of the new information, however, complemented for providing quite quickly all the additional documentation just on the side of the fence. A little more time to absorb it and follow-up questions to clarify the situation. The only one that's moving forward today [Indiscernible] do we have them on the phone?

>> Yes. This is Hector Gonzalez, with my director, Elijah Allen.

>> Thank you. Okay. Then we have a fairly brief PowerPoint, which we can go over, and I think I've already explained number one. The general recommendations are three options that you

have to choose from. One is to deny the request. Two is to approve at the 2 percent contribution amount level for that particular court. Or three, grant request beyond the 2 percent contribution amount. We'll note that in the case, they are requesting funding of \$49,000 and they are showing a negative fund balance of \$51,000. The court had an unexpected retirement lump sum payment or pay out. So they are obligated to meet that and can only do so by applying for a cash advance loan because of the timing. The court's 1%, I believe, is \$18,000. Therefore, the amount that's being requested exceeds the 2 percent, which I believe is \$33,000. The 2 percent committee, after hearing from and then discussing this, recommended option three, which was to provide the \$49,000 being requested, which exceeds their 2 percent.

>> Good presentation, Judge. Thank you.

>> Yes?

>> Option two, what percent is \$15,000?

>> There are different calculations. Thank the Department of Finance for that.

>> [Indiscernible -- multiple speakers] 2 percent is against the current year's appropriation, whereas the 1 percent is the amount against the prior year expenditures. So they're not off of the same number you are doing 1 percent and 2 percent, sorry. It's a trick question.

>> I compliment you on your mathematics acumen. I had the same question. \$18,000 times two is 36, not 33, but I just got schooled and now understand it.

>> But then 33, isn't it 49 minus 33, is it 16?

>> This is just an option in terms of court operations into what they would need to not have any closures or furloughs.

>> Correct.

>> We had an advance of \$49,000. They have a shortfall of the 51 negative fund balances at the end of the year. So I think that's where the two are throwing folks off. What their cash advance is, what they're asking for, the amount that was the negative fund balance, the cash advance they received last year. So they are wanting the money they need to pay that back.

>> Without any adverse consequence to operations?

>> Right. They will cover the gap that they experienced at the end of last fiscal year.

>> Judge Buckley?

>> I hesitate to make a comment about this. Or express a concern. I would urge option two. I know it's such a small amount of money and I understand this small amount of money is extremely still critical to a court of this size, but every day we work with precedent and I read the material that it has been the policy of the Judicial Council to go with option two. But when I look at the criteria of the beginning urgent need for unforeseen emergency, unanticipated expenses, I know the court could come to us with far, far more money being needed. If this is our definition of retirement not occurring when you expected it, retirement is going to happen. The way I understand it, without knowing the age of this person or how unexpected it was, I think we're setting up a precedent that other courts would really expect to get option three. And I think it should be option two. Because this doesn't meet the criteria of [Indiscernible] emergency.

>> Do I see hands raised? Justice Humes? Was your hand raised?

>> I'll have a comment.

>> Justice Humes, Judge Back.

>> I have a question that I don't know if you can answer. It's a broader question to tie into what Judge Buckley was talking about. What struck me about this is that there were only two applications for funding. I guess I don't know if we can read anything into that or not. Maybe we can. But is there a possibility that other applications are going to be coming in? And we will not have enough money for other courts, pro rata percentage because we've given the extra \$18,000.

>> Justice Humes, over the last three years of this process, we've barely tapped into any of the resources: several million dollars in total out of effectively an accumulation almost \$100 million of set-aside as this process has been created. So there will be plenty of resources available and we do keep in touch with courts in terms of any shortfalls on issues—we are not aware of any—unless there's another earthquake, Rick, that we had to deal with last year. There hasn't been any indication there's going to be some major draw-downs on this.

>> So when there's money left in the pot after these are made, then that money, whatever is left to get it ...

>> Pro rata to everybody.

>> \$37.7 million in the count right now. As of January, 75%, at that point that is distributed and there's a 25 pull-back and then that, through March 15, whatever is there after March 15, is again pro rata distributed to everybody. But there's an application between March 15 and the end of the year that would be, as I understand it, in the form of a cash advance. And then assuming the court would apply to the new fiscal year.

>> Judge Back, then Judge Slough.



>> I think if you follow your thinking out to the end, they shouldn't be getting any money. Because the position would be there's not an unanticipated or unforeseen event. Maybe this points out that I don't know how many judges Tehama has.

>> But recognizing that an unforeseen and unanticipated event is something far different than in a medium-sized or large county, or even one with seven or eight, that's something to factor in.

>> We do have Hector on the line.

>> It's appropriate so he can provide backfill and the application and rationale for it. Hector?

>> Yes. Thank you very much. I appreciate the opportunity. First, we did have this as something we anticipated for quite a while. We had sufficient funds in our reserve to cover this cash out. And unfortunately, when the reserves were taken away from us, it took away what we had planned and provided for. So I really find that when courts are no longer able to align the reserves that they had spent years to build out and cover these items, it puts us in a difficult situation now trying to apply a standard that we weren't aware of at the points that we were operating with a reserve. Now we have no reserve. That would be my first point. My second point is it is a small amount. I know in the whole scheme of things, and the principles that I know you want to create and apply, may seem more important but you need to know what the impact is going to be on a court. Last year, we had to, for the first time, apply 21 furlough days that were very, very traumatic. If we do not get the full amount requested, and we go to option two, we will probably have an additional four furloughs this fiscal year. Which isn't as much as 21, but clearly it's something we were hoping to avoid and doing so again would definitely destroy the court's morale. We just barely got out of the whole 21 furlough days from the previous fiscal year.

>> Judge Slough, then Justice Hull, and Judge Elias, and Judge Stout.

>> I was going to point out, I don't disagree with Judge Buckley's comments but I wanted to also look at a different perspective. I think some of the distinctions could be evaluated in the future when other courts come. There was a change of rules in the middle of the game, which put them at a disadvantage. Two, I think it speaks to just how close courts are to running on the razor's thin edge thin of being able to run their operations. There are distinguishing factors that could be considered into the future, should there be a similar type of request made.

>> Thank you. Justice Hull?

>> Thank you, Chief. Judge Slough, just spoke to one of the points that I had in mind and that is, I tend to agree. Judge Buckley, correct to be concerned about setting precedents so to speak, over the years that I've been on the council, we've had requests for supplemental funding. And we always have to worry about how it is that we deal with those in the future. I tend to agree with Judge Slough. I think we can take a case at a time and distinguish those that are meritorious and

those that may not be as meritorious. The only other thing I wanted, I won't belabor her point, I wanted to ask, Judge McCabe, you mentioned when this money is returned in the spring, whatever is returned to the trial courts is returned pro rata. Is that pro rata formula the same pro rata formula that up until WAFM was adopted? In other words, are the percentages the same?

>> I'll let Zlatko ...

>> It's just based on their share of the appropriation made in this year. Whatever is their share taken, it's giving back to them in the same way.

>> I see.

>> That's helpful. Thank you.

>> Judge Elias, Judge Stout?

>> Good afternoon. My comment is really not how much money goes here but the idea of people building up a lot of money in their reserves, for employees to be allowed to bank a lot of days which I assume is what happened here. Said it was anticipated, but this was growing as this person stayed on. My thought is whether the Trial Court Budget Working Group should have a discussion as to how many days you should allow people to carry over time and not have to use it or lose it. So these things do not grow and grow around the state. This could be an example of that.

>> Judge Stout?

>> Thank you. I appreciate Judge Buckley's concerns. When Mono County was before this council before, I voted against their request. I think for some of the reasons Judge Buckley articulated regarding the unforeseen ability of that expenditure, I'm a little biased because I've seen the impact this could have for a court that's on the razor's edge. In my opinion, I think the impact here is such that I would support option three in the recommendation of the 2 percent committee.

>> I would note before the next speaker, to address Judge Elias' point. I think that's an issue that falls under the purview of collective bargaining. Our employment attorney is no longer here, I think that might be problematic into that area. If you could.

>> Jake Chatters and then Judge Slough.

>> I have a couple questions and then a statement. If option two moves toward which is the amount that Mono put forward and the 2 percent is within the existing policy and ability for them to come back and second round for the balance, is it possible that would be held for the second round that would occur in March? Right?

>> They could come back for the next council meeting in December.

>> It would be passed. The current policy that limits to what you put in. So a decision would leave open the potential for them to get the additional funding if necessary? And then how many staff in Mono? I think it was in the report. I just couldn't find it.

>> Hector, how many staff do you have?

>> 11. May I speak to that point? We are in the middle of union negotiations that are being held based on this decision. If we do not get the complete amount requested of \$49,000, I will have to assume I will have to negotiate for [Indiscernible] closures. Next week, the union has been putting off the negotiations. So making us wait until December does not help us. It forces me to implement the action immediately based on negotiations.

>> The other comment is the questions about precedents, in a court with 11 staff, there is very little turnover relatively speaking. When that position becomes vacant, the court needs to fill it. You might expect a larger organization at five or 6% turning over at a routine rate. If you were to get this leave and vacation cash-out, you might make a decision to hold the position vacant over the next six months. In a court with 11 staff that isn't an option with no fund balance, even they knew it was coming, if there's nothing he could do; the court was in a tough position. With a court my size with 100 people, I have a little more ability to do that. I have flexibility to hold the position vacant and deal with operational repercussions of that for a short period of time.

>> Thank you. Judge Slough, Judge Nadler, Judge Anderson.

>> It gives one question that I should have referenced earlier, sorry for going back again, in addition to the comment, to also think in ways about the kind of factors that this body needs to look at in making these decisions is very much respect the fact that last year you are in the middle of furloughs. And also curious as to what other anticipatory actions the court has taken over the past few years to prepare for this. This type of eventuality.

>> I can respond to that. What we have done is within the ability we have, we were able to put a cap on the amount of leave that can be accrued. We are providing the cash-out option at the end of each year, which encourages employees to cash out their accrued leave on an annual basis. That way, we never build up a large unanticipated amount like this employee did who was here well over 16 years. Who had grandfathered in at a point before the cap. So I have instituted that cap to prevent this from occurring. We also left a vacancy to try to cover the cost. We promoted a senior courtroom clerk into the position the person left and didn't backfill the senior courtroom clerk position. So Jake was right. Normally in a court our size, we wouldn't be able to maintain a vacancy but we bit the bullet and kept that position vacant, because we knew we were trying to find ways to cover the unexpected cost of cash-out. We also have another two positions that are currently vacant as well. Pretty much 11, which is pretty much a skeleton crew that normally has

at least 17 positions. So we're running pretty much flying at the treetop level, as my father would say. I don't think we have very much altitude room now to fly any lower.

>> Thank you, Hector. Judge Chandler, Judge Anderson.

>> Trial courts, we're asked to run a business with employees, to take care of employees' needs, to anticipate as best we can what those salary structures will be, what the particular needs will be. And the reserve was our means to address those issues. Then unforeseen issues came up. It was always unanticipated issues with employees that arose. As I look at Mono, I see a county that did their best under the circumstances. The difference, what might seem a small difference, that amounts to many of our courts in a county of that size is huge. And I haven't seen any evidence that the county was dilatory. At the end of the day, we're trying to prevent people from not being able to go to court to promote access to justice. And Chief, if it would be appropriate or whether time is appropriate, I'd like to make a motion.

>> You can make a motion at any time. Thus far on the floor, I know Judge Buckley has urged option two. I haven't heard my magic words for a second.

>> At the end of my statement, with deference to my colleague, is to urge option three.

>> You mean move?

>> Well, I'd be urgent and now the magic words would be I would make a motion ...

>> That's what I'm looking for.

>> Second.

>> Second by Stout. Still up for discussion as you know. We will have seconds and still up for discussion. Judge Anderson, you wish to be heard?

>> I do wish to express that yes, I do consider Judge Buckley's concern with respect to what precedent we will be sending. However, when we take a look at it and with respect to process and procedure, part and parcel of that in terms of what will happen in the future, by way of raising questions, we have raised putting that into process and procedures so those folks in the same circumstance or situation can hear what's going on today and then work to prevent it in the future. If we look at the circumstances of the situation and say was this unavoidable? Is it an emergency? The due date funding. You have to ask, what preventive action today do we take as part and parcel of the process? Sounds like the preventive action to have taken is they're stuck with the fund balance they have. And they have made adjustments to the way they are working with employees within the confines of employee negotiations. You have to ask yourself, if they did not do preventive actions or did do preventive actions, then what corrective action have they taken? So that in the future they will not be back here asking for the same thing, because they are

working with the corrective action as well. Then you have to ask yourself, notwithstanding the preventive action and corrective action, are the consequences nonetheless affordable? I would say in this circumstance and situation, by trying to work preventively and correctively, I believe they would still be in the circumstance or situation, and it is not unavoidable where they are. All of us have the same challenge in our courts with respect to not having a fund balance or not having the ability to place restricted funds aside and as people retire, things they have accrued, you still have to pay for it even though you may be able to change in the future what they can accrue. You can't take away what they have accrued. So there will be some courts in that circumstance and situation but I think if you ask the question, what was your preventive and corrective action? Are your consequences unavoidable? You can come to the right decision.

>> Thank you. Rick Feldstein?

>> This is a really, really difficult situation. And I understand and agree with a great deal of Jake's comments. As a CEO, I am concerned going back to the precedent issue, that while things have gotten better for us as a branch, and that courts on the positive side of WAFM and other factors are doing better, there are many courts that are not. There are many courts that have had significant takeaways as Mono did in this case with the 21-day furlough, and have not been able to get back and continue to manage. Sometimes surprising increases in expenditures within their budget. Going back to the 2 percent, I really am concerned about the precedent of providing money until the 2 percent, and this is to avoid four days of furlough as opposed to 21. They are still better than what they were. It is still a get-back. Just not as much of the give-back.

>> Judge Feng?

>> I agree with Justice Hull. When issues like this come up, we should view it on a case-by-case basis. I never agree with closures because court closures in essence mean that you have no access to justice; I frown upon that. With the size of Mono County, even a day closure is a day without justice. I want everybody to keep that in mind. Our theme here is to make sure that there's access to justice for everybody. If it's going to be detrimental for Mono County, for one day of closure, one day of no court access, with Judge Buckley and Mr. Feldstein, I understand the precedent issue, I'm a new member of council, but I always agree we should take every issue on a case-by-case basis. This is one of them. And it's a case-by-case basis. Hearing from Hector, it seems to me that this is something that we have to act upon. And I agree with Judge Nadler and I second it. And I think we should go with option three, but I'm also aware that precedent is something we should be concerned about, but as a body we can go through that case-by-case analysis.

>> Does furlough equal closure?

>> No. As a matter of clarification, to make that point, the furlough isn't necessarily closure because they stagger them. But in units, they look at them collectively as days. So they wouldn't necessarily be closing.

>> Justice Humes, the Judge Buckley.

>> Maybe you know the answer to this. Maybe all of you know the answer to this. But statewide, 21 days of furlough, that's a lot of furlough. Does any other county have that kind of level of furlough? This last year? Or is that rare? Is it ...

>> Kings had, I believe, 21 days. Right? Curt? Last year? And I believe they continue to have furloughs as we speak.

>> This is Hector Gonzalez. Could I answer the question on the number of furloughs versus court closures? We did have 21 days of furlough. That translated into 17 court closure dates. We would have to do actual court closures for four days. Given the size of our staff, we don't have enough time after I negotiate with the union to get notices to be able to spread out the furloughs sufficiently to avoid court closure days. So we will definitely have court closure days in addition to the furloughs.

>> Judge Buckley?

>> Can never argue against one hour, one day of closure. But maybe take Mr. Feldstein's comments, we have to keep in mind this is a four or five-year issue we're dealing with. And courts have dealt with this at different times, different ways, and different extents. And so again, I want to repeat what I said about the precedent. This was thrown onto us, 2 percent or 1 percent, but would have to be consistent.

>> I'm going to ask Martin to do a roll call vote. I don't see hands raised at this moment to further their discussion.

>> This was on the motion by Judge Nadler.

>> Option three?

>> Option three. Justice Chin?

>> Yes.

>> Justice Hull?

>> Yes.

>> Justice Humes?

>> Yes.

>> Justice Miller?

>> Yes.

>> Judge Anderson?

>> Yes.

>> Judge Back?

>> Yes.

>> Judge Buckley?

>> No.

>> Judge Elias?

>> Yes.

>> Judge Feng?

>> Yes.

>> Judge Nadler?

>> Yes.

>> Judge Rubin?

>> Yes.

>> Judge Slough?

>> Yes.

>> Judge Stout?

>> Yes.

>> Judge Tangeman?

>> Yes.

>> Assembly Member Bloom?

>> Yes.

>> Mr. Bonino?

>> Yes.

>> Mr. Kelly?

>> Yes.

>> Ms. Melby?

>> No.

>> Ms. Pole?

>> Yes. Motion carries.

>> Thank you. And I'm appreciative of the discussion we had, and especially mindful of our new members. Council has been having these kinds of discussions since 2011. It's important that we all bring our statewide perspective and history and experience as to what happened. Each court has handled the reductions differently and prepared for the surprises that came with some legislation that brought the 2 percent reserve, and lost our reserve across the board. And many important comments were made today. As we go forward they will be kept in mind. Thank you, Hector, for the information and best wishes as you move forward.

>> Thank you very much to the entire council. I appreciate the opportunity. I do agree that we need to have some means of planning and preparing our courts for this with a fair application so that there is a means for courts to be able to tell what is an appropriate for an emergency supplemental request. And I thank you for letting us have this opportunity to avoid the furloughs and court closures.

>> Thank you.

>> May we always keep this as a talking point when we urge the Legislature to get rid of this 1 percent cap?

>> Yes. Thank you.

>> Here is Assembly Member Bloom.



>> [Laughter]

>> We appreciate him being here.

>> Thank you.

>> Of course. I also understand we have Assembly Member Kevin McCarthy in the audience. So thank you.

>> Next on our agenda is item L. It's an action item. Court Adoption and Permanency Month, Judicial Council resolution. And I invite up Assembly Member Kevin McCarty, California District Seven; Judge Jerilyn Borack, cochair of the Judicial Council Family and Juvenile Law Advisory Committee; and Ms. Athena Madison, adopted family member. Welcome.

>> Thank you, Chief and council members. We are here today to propose to this council a resolution. This resolution is consistent with the commitment that this council has to support practices and procedures that promote access to justice and improve case outcomes for California children. While you listen to the speakers today, I want you all to reflect on one thing. Think about what family means to you. Personally. Try to come up with three words that define in your mind and in your heart, what family is. It is my honor today to introduce Assembly Member Kevin McCarty. He has sponsored a similar resolution in the Assembly regarding adoption and permanency. He was elected to the California State Assembly in November of 2014 to represent Assembly District Seven which includes the communities of Sacramento, West Sacramento, Rio Linda, Alberta, and Angelo. Prior to being elected to the California State Assembly, Kevin McCarty served on the Sacramento city council for 10 years. Among his many accomplishments, as a city council member, Assembly Member McCarty led efforts to invest in public schools and worked to increase funding for new local libraries, parks, and community centers. He has always had the best interest of families and children in mind in the work that he has done. He worked as a preschool advocate for Early Edge California, a statewide nonprofit organization dedicated to expanding access to quality early education programs. He helped pass the Kindergarten Readiness Act in 2010 to expand early education programs. He is a lifelong Sacramento resident, and attended local public schools there. He lives in Elmhurst with his wife Leticia and his twin kindergarten daughters, Victoria and Barbara. I ask the council to give a warm welcome to Assembly Member Kevin McCarty.

>> [Applause]

>> Hello, council members. Thank you for allowing me to be here with you today. I am Kevin McCarty. There was a lot of confusion with Kevin McCarthy who dropped out of the race for speaker. But I'm of course Kevin McCarty. I had a lot of interesting calls in the last few months.

>> [Laughter]

>> I'm a local representative. So I know you come here a lot and you serve our state all across California. Before I get to today's actions, I wanted to say thank you for working on this issue. And on our courts. Access to justice for everybody across California, as was mentioned in my introduction, I spent a decade working on early education issues. I mention that because we used to go around the halls of the Capitol and talk about budget cuts. There are two groups that took a whacking during the Great Recession: early education and the courts. Those are the two that faced the most severe cuts. First hand, I know what happened to the court system. We're trying to rebuild that to make sure that businesses, families, individuals, basically justice can thrive here. Thank you for what you do. Assembly Member Bloom and I are working together to make sure we have adequate funding for our court system. To the matter at hand, I had the honor to offer this resolution and request recognizing November as Court Adoption and Permanency Month. It's a focus of mine trying to make sure we have better outcomes for these young people in California as I know the court system does as well. And you don't need to hear the research again, but we know that young people who age out of the foster care system without permanent connection to a family results in individuals who are much more likely to commit crime and substance abuse and end up being in your courthouse, costing taxpayers upwards of \$60,000 a year for incarceration or having worse outcomes as far as health costs and personal tragedy. So we're doing all we can in California. I appreciate the Judicial Council stepping up on this as well. And ACR 103 passed the Legislature in September and we have with us today the resolution I'd like to present to the Judicial Council. And I just wanted to thank you for this partnership and I know that Assembly Member Bloom and I voted on this in the last days of the Legislature. I wanted to come here today to thank you for the opportunity to work on this issue and present to the Judicial Council this resolution. As well, we're going to hear from individuals and talk about this issue. Thank you.

>> Thank you. Thank you, Assembly Member McCarty. I would also like to introduce Ms. Athena Madison. She is a passionate foster youth advocate, public speaker, published author and artist, and a dedicated full-time student. During the summer of 2013, Athena was chosen as one of 16 from a nationwide pool of applicants to be part of the Congressional Coalition on Adoption, the congressional foster youth internship program. That's a mouthful. She interned in Washington, D.C. with Congress Member Karen Bass from my hometown, Los Angeles, and worked solely on foster care policy and alternative foster care adoptive placements to find foster families which was later presented in a Congressional briefing. She currently attends Pasadena City College. She is focusing on her studies in political science and English. Athena, as having been a former foster youth herself, proactively works to improve the foster care system in the San Gabriel Valley area. She's newly appointed to the board of Santa Anita Family Services, and as a foster youth consultant. Athena, welcome.

>> Thank you. Thank you, Chief Justice and Judicial Council members. Today, I wanted to come here to speak a bit about my experience in terms of parenting and how that played a role in my current situation as having been adopted as an older youth. My mother passed away when I was seven. My father literally ran away when she passed away. It was his way of coping. And when he ran away, I realized that he wasn't going to be around. So I took on the role of being a

mother to my siblings, between the ages of seven and 14. And I didn't go to school for middle school. My dad would be in and out of our lives, and he believed that women didn't need to go to school. So I missed out on school. And I raised my siblings as best I knew how. And we would go beg for food and try to get by. My dad was basically not in the picture. Eventually I realized that I was going to end up dead or sold, and we had been through enough physical and emotional and sexual abuse that I didn't want to go through that again. So when I was 14, I created a file against my father with evidence to try to prove to the social workers that I was in dire need and that we could not be in that home. Eventually, I was able to convince them and we were placed in foster care. And when I got into care, I made sure that I was involved. Every little tiny process about my case. Because I felt that they were just not going to understand what my needs were. And I wanted to be a part of how I was going to be raised in the system. Throughout the foster care, between the ages of 14 and 20, I was still playing the role of a mother to my siblings. The foster parents that they had would call me to ask for my advice on how to parent them and how to deal with them and they would call me, they would listen to me. And it was a very interesting situation to be so young and having to make the life defining choices. Things that would impact their future. And I had a very clear idea that I wanted to succeed. I didn't know what that looks like but I knew it included discipline and structure. And I became obsessive with trying to create the best possible future out of a foster care system. With all the foster parents I encountered, they all looked at me as a very independent kid. And so they didn't really like me. My very first foster home was a very military kind of style of discipline. And I loved it. Not because of the parents, but because of the discipline. And I looked at it and I was like, this fits into my plan for my future. And I need the skill set. So there was never really any love. It was just kind of, this is my job. I'm a foster parent. There's the door if you need it. I was kind of disposable. Just another dollar sign. So I moved on as soon as I could. There wasn't really much there for me. Then I ended up in another foster home where foster dad had lost his wife and he was really depressed. And he was always sleeping or always drunk. I felt like there was a cloud of depression and I didn't want that. I had been through that with my own father. So I talked to the foster dad and said, you know, I'm really sorry you're going through this but I cannot be here. This is not what I need right now. So I left. And I found that most of the homes I was seeking a parent; I wasn't getting that. Eventually I decided that I was going to wait and hope somewhere I would find a mentor that could fulfill that role. I found a few mentors that didn't fulfill the role. They were just more friends, but when I was in this foster home, and I was 18 and foster mom had lost both her brothers to cancer and so she couldn't foster anymore, I was scared because I was 18 and there was no more foster homes for older youth. And that meant I would have to emancipate. I was able to just barely get into the cusp of a B12, which was very, very lucky. So I was able to use that extension to have my social workers find me any home. I was willing to take any home, just so that I could have that extra two-year wiggle room to set myself up so that I could move out or find a transition housing with a higher age cap that wasn't 21, something. They found a home with a foster mom that had never fostered before. She wanted to meet me. She was very hesitant. And we met and she really liked me, but we didn't really get to know each other. But I moved in anyway because that was the only option I had. When I moved in, I really liked it because she had never fostered before. Her home wasn't a cliché foster home where you walk in and they give you a tour of the bathroom, and the rules, and the chore chart, and the strict

regimen that foster parents have to implement into their homes in order to retain some kind of stability in their kids. She didn't have any of that and that felt normal to me. I was like, this is truly different, this is not a foster home. So turns out she had never known that I wanted to be adopted. Because my social workers were telling everyone that I didn't want that option. That I could handle myself and no one had ever asked me this. I didn't know that was an option for me, and I was really disappointed because it meant that I could have been adopted years ago and could have saved myself a lot of harm. When I came to the home I'm at now, in which I was adopted, there was a lot of tension because we had very different ideologies. Being adopted, I think people believe it's going to be this cliché love story of bonding, but I was adopted as an adult. And I was basically married. I had had a whole life before her. And I had my own ideologies, religion, my own way of looking at life, I was dealing with PTSD at the time, and I didn't know how she would fit into my life. And if she was going to be able to help me. But I really needed her. So I put a lot of expectations on our relationship, when she asked me that, she was considering adopting me. And I was like, oh, my God, this is incredible. I thought, wow, I'll finally have that which I've been looking for, that love, that nurturing, that relationship that will be a corrective relationship, that will heal homes, of all the previous parents that I had or didn't have. And it didn't turn out that way at all. I feel like I was in a lot of pain for a long time. And it wasn't terrible, it wasn't bad. It was just my emotional needs were not being met. My financial needs were being met. And I appreciate everything she has ever done for me. She gave me the opportunity to go to school, which breaks my heart still because I know at one point I couldn't. And so I appreciate all of those things, but my emotional needs are not being met. And it's just, we're just different people. We have different personalities and we have different ways of looking at the world. So essentially she's become like a friend. Someone that I can speak to, an aunt. I decided the best thing would be to make the best out of this relationship. I've always parented myself, so I figured, why couldn't I keep doing that? And just make the most out of this relationship and get the most out of it? If it wasn't for a B12, I probably wouldn't have ever met her. I very much would have been in a homeless facility. I would have never been able to go to D.C. and work for Congress Member Karen Bass. I would never have published a policy recommendation. I would have never been able to help my siblings. So I'm very grateful, very grateful for being adopted, for being given the opportunity, the gift to stabilize my life, you know? To have three years to get myself together so that I could finish school and go to law school and do what I want to do and keep advocating because I love this so much. But my life could have easily turned out very, very differently. The policy recommendation I did in D.C. was about adoption placement, ironically. And that was before I had learned that Jody wanted to adopt me. I think it's very funny how it all tied in. So yeah. Thank you.

>> [Applause]

>> Also joining us in support of this resolution is Ms. Donna Dobbins. Will you stand up please? And Ms. Devon Bradford. Ms. Dobbins and Ms. Bradford are both guardians of children to whom they are related. Thank you very much for your support. And want to remind the council that adoption is not the only permanency option. Many, many families choose guardianship, because they don't feel right about changing the constellation of their family. I'm an aunt, I'm

not mom. And they provide the kind of family and the kind of permanency to other members of their family that we want to achieve. This is my 50-year sitting in the child welfare court. We don't like to call it the dependency court anymore. We call it the child welfare court. I have 750 children in my caseload right now. And many of their stories are like Athena's. Many of them are worse. And they don't turn out quite as happy as hers. Those were partly tears of joy, I think, that she was crying, and tears of confidence. And you have a copy of the resolution in your materials for today. You understand the numbers of children that are waiting for permanency. And I thank you. I thank the Chief and I thank all council members for helping us to recognize the importance of this work that we do in our courts. Before I hear from council members, I want to say that Judge Borack, I'm well familiar with your work in Sacramento for many years. And it's an understatement for me to say thank you for your devotion to child welfare, your leadership, and education you provide in this area. To Assembly Member McCarty, thank you. Thank you for taking an interest in this and dedicating so much of your life to ensuring that children have an opportunity and are on the right track and receive what they need. Thank you for bringing this resolution to us. Thank you for championing this cause in the Assembly, in the Legislature. It means so much to us. So much of our work is intertwined with the work of children. As Judge Borack had said, she has 750 cases of children, children of 18 years-plus, of stewardship, in the courts. To Ms. Dobbins and Ms. Bradford, thank you for your contributions and your heart. I think, Athena, Ms. Madison, your story has touched all of us. Your maturity comes at an emotional cost. But you are a remarkable, extraordinary woman. Don't let the past get a hold on you. Grow from it as you have. You've touched us all in so many ways. We wish you the best and we can think of no better advocate or spokesperson for children than you. Thank you. So for council, we have a resolution in front of us. I'm prepared to hear motions or comments, observations? Judge Stout?

>> I'd be honored to move the resolution, Chief. And I want to thank Athena for being here. That's a lot of courage. And the Chief said it the best. You really put a face on the work that the people here do. And I'm reminded of the recommendations of the Blue Ribbon Commission on Children in Foster Care, and that's something we can keep at the forefront of our activities. And I see Don Wells and Judicial Council staff back there, they worked tirelessly on that. And Audrey Fancy, and of course Diane Nunn, the director of the Center for Families, Children & the Courts. This is a reminder to all of us, the work they do, to benefit our most vulnerable youth. Judge Borack and the members of the advisory committee worked tirelessly to have timely permanency for our vulnerable youth and better outcomes for them. And I think the work they do, we cannot express our thanks deeply enough. Because they're really working to support the trial courts and to ensure that we can have permanency in cases such as this. Assembly Member Bloom as well. Thank you both very much for your efforts there. It's critical.

>> Thank you. Judge Back second. Judge Feng?

>> You will be a fantastic lawyer, Athena.

>> Thank you.

>> All of us wish you the best and most of you who are in Los Angeles will be hopefully seeing you in court.

>> Thank you.

>> Judge Taylor?

>> I was really moved by your comments. And having contact and experience like yours, you are an amazing advocate. And keep telling your story because it's going to change people. I'm sure it's changed people today. But certain people are in certain places at the right time and you are here for a really good reason. And I just appreciate you coming here and telling us your story.

>> Thank you.

>> Assembly Member Bloom?

>> Thank you.

>> Just a quick note of thanks to my colleague, Mr. McCarty, and to you, Athena and Judge Borack. Athena, the story you impart to us resonates not just because it's your own story, but because we know that there are thousands of other young people who are experiencing their own stories, very unique stories, but traumatic in many cases. We know that relationship between the foster care system and homelessness, that persists far beyond any rational level in many of our communities, but particularly in Los Angeles and Sacramento, and many of our big cities in California. In fact, 20% of the homeless population of the United States is right here in the state of California. As the spouse of an adoptee, I just wanted to congratulate you for bringing this to us. I want to close by saying that this particular issue is one that binds the judiciary, the Legislature, our local governments, every level of government participates systematically and systemically in and about this issue. And it demands our cooperation and it is one of the reasons why a strong court, a strong legislative branch, all of these things are so important to the citizens of the State of California.

>> Thank you, Assembly Member Bloom. Judge McCabe?

>> Yes. I practice in the area of child welfare as well. Done it for four years. And Athena, whether you know this or not, your name is also the name of the Roman goddess of wisdom, courage, and strength. My oh my, are you appropriately named. That was moving, takes extraordinary courage and strength to share your story. It's a story of pain. However, I find comfort in people like you that come before me who are able to rise above their past and concentrate on not only the present, but the future. It makes my heart sing to hear that you are on a path of education. Education is the great equalizer and it's something that nobody can take away from you once you achieve it. And you can do anything you put your mind to. And I think you believe that. So very, very proud to have witnessed and heard your presentation. I'm

thankful for the Assembly Member, Judge Borack, and the committee. Thank you very much. Keep fighting. Okay? Keep your focus, and you'll find contentment through your struggles. So thank you very much.

>> All in favor of the recommendation that is to adopt the resolution effective today, proclaiming November 2015 to be Court Adoption and Permanency Month, please say aye.

>> Aye.

>> Any opposed or abstentions? The matter carries unanimously. Thank you again for your presentation. Please come up to take a picture.

>> Let's even this out here.

>> Do we have everybody?

>> Yeah.

>> Great. Thank you.

>> Is that it?

>> Are you okay? All right?

>> Thank you. Nice to meet you.

>> We conclude today's meeting as we very often do with a brief remembrance of judicial colleagues recently deceased. Judge Franklin Stephenson was still active on the bench of the Superior Court of San Joaquin County at the time of his death. These other colleagues had retired from judicial service, from the bench. Judge Thomas Allen, Jr., Superior Court of Los Angeles County; Judge James Cook, Superior Court of Orange County; Judge Floyd Dodson, Superior Court of Santa Barbara County; Judge Bill Dozier, Superior Court of San Joaquin County; Judge Roderic Duncan, Superior Court of Alameda County; Judge John Griffin, Orange County Municipal Court; Judge Priscilla Haynes, San Joaquin County Municipal Court; Judge Alfonso Hermo, Los Angeles County Municipal Court; Judge Robert Kroninger, Superior Court of Alameda County; Judge John Leahy, Superior Court of Los Angeles County; Judge Murry Luftig, San Diego County Municipal Court; Judge Bruce Thompson, Superior Court of Ventura County; Judge Marcus Tucker, Superior Court of Los Angeles County; and Judge Robert Wenke, Superior Court of Los Angeles County. We honor them for their service to the courts, through rule of law and equal access to justice. The next regularly scheduled Judicial Council meeting is on December 10 and 11. Thank you and safe travels. We stand adjourned.

>> [event concluded]